

ONTARIO

# REVISED STATUTES OF ONTARIO, 1960

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL  
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED  
UNDER THE AUTHORITY OF THE STATUTES  
REVISION ACT, 1959

IN FIVE VOLUMES

**VOL. 4**

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER



# REVISED STATUTES OF ONTARIO, 1960

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## CHAPTER 308

## The Probation Act

1.—(1) The Lieutenant Governor in Council may ap- Probation officers, appointment  
point such probation officers as are deemed necessary for the  
purposes of this Act.

(2) Every probation officer appointed under this Act is Jurisdiction  
a probation officer in and for the Province of Ontario.

(3) A probation officer appointed under this Act shall Where duties to be performed  
perform his duties in such part of Ontario as is assigned to  
him from time to time by the Attorney General.

(4) A probation officer appointed under this Act shall be Status  
deemed to be an officer of every court in the part of Ontario  
to which he is assigned and shall carry out the directions of  
the judges and magistrates presiding in such courts. 1959,  
c. 76, s. 1, *part*.

2.—(1) The council of a county to which a probation Office accom-  
modation  
officer is assigned shall provide such office accommodation  
for him as the regulations require and every city and separated  
town shall, as part of the county for judicial purposes, bear  
and pay their just share or proportion of the cost of providing  
such accommodation.

(2) If the council of a county and the council of a city or Arbitration  
separated town are unable to agree as to the amount to be  
paid by the city or separated town under subsection 1, the  
amount shall be determined by arbitration under Part XVI  
of *The Municipal Act*.

R.S.O. 1960,  
c. 249

(3) Where under an agreement or award or under a general Where city responsible  
or special Act it is the duty of a city to provide accommodation  
for the courts and the officers engaged in the administration  
of justice in the county, the city shall provide such office  
accommodation for the probation officer as the regulations  
require. 1959, c. 76, s. 1, *part*.

3.—(1) It is the duty of a probation officer and he has Powers and duties  
power with regard to any person convicted at a sittings of the  
Supreme Court for the trial of criminal cases, or at the general  
sessions of the peace, or at the county judges' criminal court,  
or at the court of a magistrate or justice of the peace, or at the

court of a juvenile and family court judge, in the part of Ontario to which he is assigned,

- (a) to procure and report such information as to the antecedents, family history, previous convictions, character of employment and other information respecting any person so convicted as the court requires;
- (b) to supervise under the direction of the court before whom such person was convicted the employment, conduct and general condition under which the person so convicted may be placed during the period of probation imposed by the court;
- (c) to see that any person so convicted reports from time to time as the court prescribes, and to report to the court if the person so convicted is or is not carrying out the terms on which sentence is suspended, and to see that such person, in case of default, is brought again before the court for sentence;
- (d) to see that any person so released on suspended sentence duly makes restitution and reparation;
- (e) to see that any person so convicted while on probation duly carries out any order of the court requiring him to make due provision for the support of his wife and any other dependants for whom he may be liable;
- (f) to do all such other things as are directed by the court or by the regulations made under this Act. R.S.O. 1950, c. 291, s. 2 (1); 1959, c. 76, s. 2 (1).

To be  
*ex officio*  
provincial  
constable

(2) In the performance and exercise of the powers imposed by or under subsection 1, a probation officer is *ex officio* a provincial police constable. R.S.O. 1950, c. 291, s. 2 (2); 1959, c. 76, s. 2 (2).

Expenses  
of office,  
how borne

4. The salary or other remuneration of a probation officer and the expenses of providing clerical and other assistance and any other necessary expenses of his office are payable out of the moneys appropriated therefor by the Legislature. 1957, c. 95, s. 1; 1959, c. 76, s. 4.

Regulations

5. The Lieutenant Governor in Council may make regulations, which may be general or special in their application,

- (a) respecting the qualifications, duties and powers of probation officers;
- (b) respecting the office and other accommodation and

clerical and other assistance to be provided for probation officers;

- (c) prescribing the reports and returns to be made by probation officers;
- (d) fixing the salary or other remuneration to be paid to probation officers;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 291, s. 6.

**6.—(1)** Where a person is charged with having committed an offence against any statute of Ontario, the justice, magistrate or court before which such person is brought for trial may make such inquiries as he or it deems proper as to the character and reputation of the person charged and as to whether or not he has been previously convicted of any offence under the *Criminal Code* (Canada) or against a statute of Ontario, and if it appears that, regard being had to his age, character and antecedents, that it is expedient that he be released on probation of good conduct, such justice, magistrate or court may release him under one or more of the following directions and conditions:

1. That such person enters into a recognizance with or without sureties to keep the peace and to be of good behaviour.
2. That such person be placed upon probation for such period and under such circumstances as the justice, magistrate or court before which he is brought prescribes.
3. That such person shall report from time to time during such period of probation to any probation officer that the justice, magistrate or court designates.
4. That such person shall be under the supervision and direction of such probation officer during the period of probation, and shall obey and carry out the instructions and directions of the probation officer.
5. That such person pay the costs of the prosecution or some portion of the same within such period and by such instalments as the justice, magistrate or court before which he is brought directs.
6. That such person make restitution and reparation to any person or persons aggrieved or injured by the offence charged, for any actual damage or loss thereby caused.

support of  
family

7. That such person while on probation be ordered to provide for the support of his wife and any other dependant or dependants for whom he is liable.

other  
conditions  
and  
directions

8. That such person perform and carry out any other direction and condition that the justice, magistrate or court before which he is brought prescribes and deems proper to impose.

Place of  
abode of  
person  
charged  
to be in  
jurisdiction

(2) The justice, magistrate or court before which such person is brought, before directing the release or discharge of any such person, shall be satisfied that such person or his surety has a fixed place of residence or regular occupation in the county or place for which the justice, magistrate or court acts, or in which such person is likely to live during the period named for the observance of the conditions.

Failure to  
carry out  
conditions

(3) If any justice, magistrate or court having power to deal with such person in respect of the charge against him, or if any justice, magistrate or court is satisfied by information on oath that such person has failed to observe any of the conditions of his recognizance, or has failed to observe and perform any direction or condition made in reference to probation or otherwise, a new information may be issued against such person for the original offence charged, and in addition an information may also be issued against such person for a breach of any of the directions and conditions so imposed.

Penalty

(4) Upon summary conviction of a breach of any of the directions and conditions so made, such person, in addition to any penalty that may be imposed for the original offence, is liable to a fine of not more than \$50. R.S.O. 1950, c. 291, s. 7 (1-4).

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## CHAPTER 309

**The Professional Engineers Act****1. In this Act,**Interpre-  
tation

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "board" means the board of examiners of the Association;
- (c) "council" means the council of the Association;
- (d) "graduate" means a graduate from a university recognized by the council in any branch of engineering or science the practice of which constitutes professional engineering;
- (e) "licensed" means that permission has been granted by the council to a non-resident engineer to practise temporarily without being registered, and "licence" means the official certificate under the seal of the Association evidencing such permission;
- (f) "member" means a registered member of the Association;
- (g) "president" means the president of the Association;
- (h) "professional engineer" means a person who practises professional engineering;
- (i) "professional engineering" save as hereinafter mentioned means the advising on, the reporting on, the designing of, the supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges, cranes, drainage works, irrigation works, waterworks, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete and reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric apparatus, electrical communication systems and equipment, mineral property, mining machinery, mining development, mining operations, gas and oil developments,

smelters, refineries, metallurgical machinery, and equipment and apparatus for carrying out such operations, machinery, boilers and their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines and other mechanical structures, chemical and metallurgical machinery, apparatus and processes, and aircraft and generally all other engineering works including the engineering works and installations relating to airports, airfields and landing strips and relating to town and community planning;

- (j) "registered" means that an engineer has been admitted to membership in the Association and that his name has been enrolled in the register, and "certificate of registration" means the official certificate under the seal of the Association evidencing the same;
- (k) "registrar" means the registrar of the Association;
- (l) "secretary" means the secretary or the secretary-treasurer of the Association;
- (m) "undergraduate" means a student enrolled at but not graduated from a university recognized by the council in a course in any branch of engineering or science the practice of which constitutes professional engineering;
- (n) "vice-president" means a vice-president of the Association. R.S.O. 1950, c. 292, s. 1.

Where Act  
not to bar  
practice of  
profession

**2.** Nothing in this Act prevents or shall be deemed to prevent,

- (a) any person from performing his duties in Her Majesty's armed forces;
- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect;
- (c) any person from practising his trade or calling of a stationary engineer who holds a certificate under *The Operating Engineers Act* or from so designating himself;

R.S.O. 1960,  
c. 20

R.S.O. 1960,  
c. 282



- (d) any person from practising his profession, trade or calling as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect, or from advising on, reporting on, designing, or supervising the construction of any mining plant, mining machinery, mining development, mining operations, gas and oil developments, smelters, refineries, metallurgical machinery, or equipment, apparatus, or plant or anything in connection therewith for carrying out such operations, or chemical machinery, apparatus or processes;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or to require any such person to become registered or licensed under this Act to so perform or practise. R.S.O. 1950, c. 292, s. 2.

**3.—**(1) All persons registered as professional engineers under this Act constitute the "Association of Professional Engineers of the Province of Ontario" and are a body politic and corporate, with perpetual succession and a common seal. What shall constitute Association

(2) The head office of the Association shall be at the City of Toronto. Head office

(3) The Association may purchase, acquire or take by gift, devise, bequest or donation for the purposes of the Association and the furtherance of its objects but for no other purposes or objects and may sell, mortgage, lease or otherwise dispose of, any real or personal property. Power to acquire and hold property

(4) All fees, fines and penalties receivable and recoverable under this Act belong to the Association. R.S.O. 1950, c. 292, s. 3. Fees, fines, etc.

**4.—**(1) The council may pass by-laws or amendments to existing by-laws for, By-laws

- (a) the admission and registration of members and the recording of licensees, and of graduates, undergraduates and persons serving under articles;
- (b) prescribing a code of professional ethics;
- (c) defining "unprofessional conduct", "gross negligence", "incompetence" and "serious criminal offence" for the purposes of subsection 1 of section 28;
- (d) the keeping of a register of members and licensees;

- (e) the fixing of dates and places of meeting of the Association and the council;
- (f) the government and discipline of the members;
- (g) the election of the council;
- (h) the remuneration and reimbursement of members of the council;
- (i) the election or appointment of the officers of the Association;
- (j) the fixing, levying and collecting of a fee on each application for registration as a member or for a licence to practise or for recording as a graduate, undergraduate or person serving under articles and for the fixing, levying and collecting of an annual fee from each member or licensee;
- (k) the management of the property of the Association;
- (l) the establishment of scholarships, bursaries and prizes;
- (m) instituting and providing means for increasing the knowledge and skill of professional engineers, for advancing their status and well-being, and for maintaining a high standard of professional ethics among them;
- (n) the application of the funds of the Association for the purposes aforesaid and the furtherance of its objects; and the investment of its funds not immediately required as aforesaid, in securities authorized by law for the investment of trust funds;
- (o) generally all such other purposes as may be deemed necessary or convenient for the management of the Association and the conduct of its business. R.S.O. 1950, c. 292, s. 4 (1); 1952, c. 79, s. 1.

Idem

(2) As between members of the Association, the ruling of council on the construction and interpretation of its by-laws is final. R.S.O. 1950, c. 292, s. 4 (2).

By-law to  
be sub-  
mitted to  
members of  
Association

**5.** No by-law or amendment to a by-law, passed by council on or after the 4th day of June, 1946, is valid or shall be acted upon until it has been,

- (a) submitted to the members of the Association for approval by means of a letter-ballot returnable within 30 days after the mailing thereof and unless a majority of those voting within the prescribed time have approved thereof; and

- (b) approved by the Lieutenant Governor in Council.  
R.S.O. 1950, c. 292, s. 5.

**6.** For the purposes of representation upon the council <sup>Branches</sup> and for registration and for such purposes only as are set out in this Act, the membership of the Association is divided into the following branches:

1. Civil.
2. Mechanical, Aeronautical and Industrial.
3. Chemical and Metallurgical.
4. Electrical.
5. Mining. 1954, c. 73, s. 1.

**7.** Additional branches may be established by the Lieutenant Governor in Council upon the petition of not less than 100 <sup>Additional branches</sup> registered members of the Association, provided such petition is approved by the council, or upon petition of 200 members of the Association if such approval is not obtained. R.S.O. 1950, c. 292, s. 7.

**8.—(1)** The council shall consist of a president, a first vice-president and a second vice-president, an immediate past-president and three councillors from each branch of the Association, all of whom shall be registered members of the Association and domiciled in Ontario. <sup>Council</sup>

(2) The president, who shall be elected annually by vote <sup>President</sup> of members, shall hold office until his successor is elected, shall act as presiding officer at the meetings of the council and of the Association, voting only when the votes are evenly divided, and on his retirement shall hold office as councillor for the next year succeeding.

(3) The vice-presidents shall be elected annually by vote <sup>Vice-presidents, election</sup> of the members and the first vice-president has all the powers of the president during his absence, and the second vice-president has all the powers of the president during the absence of the president and the first vice-president, provided always that if the second vice-president resides in Toronto and the first does not the council may by resolution authorize the second vice-president to have all or any part of the powers of the president while the president and first vice-president are absent from Toronto.

(4) Two councillors shall be elected annually from each <sup>Councillors</sup> branch of the Association by the votes of the registered

members in such branch, but any member registered before the 4th day of June, 1946 in more than one branch may vote in only one branch according to his selection, and he may transfer his vote to any other branch in which he is registered upon the approval of the council, and one councillor from each branch of the Association shall be appointed by the Lieutenant Governor in Council for a term not exceeding five years.

Secretary  
and trea-  
surer,  
appointment

(5) The council shall appoint a registrar and a secretary and a treasurer who shall hold office during the pleasure of the council and any two or more of such offices may be held by one person.

Vacancies

(6) In case of the death, resignation or incapacity of any officer or councillor, the office shall be declared vacant by the council and, except in the case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy in such manner as may be provided by the by-laws of the Association for the balance of the term, and absence from three consecutive meetings may be treated by the council as incapacity.

Idem

(7) In the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy. R.S.O. 1950, c. 292, s. 8.

Members of  
council to  
control regis-  
tration and  
licensing

9.—(1) The members of the council representing each branch shall control, subject to the terms of this Act, the conditions for registration and for licensing in such branch, including credentials, examinations and exemptions.

Powers of  
council

(2) The council as a whole has the power to review the establishment of and the carrying out of the conditions for registration as administered by the representative councillors from all branches, and has the power to require the representatives of such branches to modify their administration in order to maintain a standard of qualification in members satisfactory to the council.

Revocation  
of certifi-  
cates

(3) The revocation of certificates and the reissuing of such certificates, the questions of discipline, fines, suspensions, expulsion, finance, overlapping of practice in branches, and all matters not coming within the provisions of subsection 1 shall be dealt with by the council as a whole. R.S.O. 1950, c. 292, s. 9.

Qualifica-  
tion for  
membership

10.—(1) Any applicant for membership who,

(a) is resident in Ontario;

(b) is of the full age of twenty-one years or over;

(c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to this Act;

(d) has had five years or more experience in engineering work satisfactory to council; and

(e) provides satisfactory evidence of good character,

shall be registered by the council as a member of the Association.

(2) Each applicant for membership shall submit upon the forms prescribed by the council evidence of his educational qualifications and engineering experience, a proper certificate as to his age, such information as may be required as to his residence and at least three references as to his character and engineering experience, and he may be required by council to verify the statements set out in his application by affidavit or statutory declaration. Evidence of qualifications

(3) Each application for membership shall state the branch in which the applicant desires to be enrolled and the application shall be referred to those members of council who represent that branch for their consideration and such councillors or a majority of them shall report to the council as to whether or not they consider the engineering experience acquired by the applicant to be satisfactory. Report of councillors for branch

(4) If the applicant is a graduate in any branch of engineering or of science, the practice of which constitutes professional engineering, from a university recognized by the council, the applicant, upon presenting evidence of the actual time during which he was under instruction in the university shall be granted the time spent under such instruction in reduction of the period of engineering experience above required, but the total exemption granted shall not exceed four years. Credit for time spent at university

(5) In determining the examinations to be prescribed for the applicant regard shall be had to whether or not he is a graduate of a university recognized by the council and to the examinations that he has passed to obtain his degree and the council on the advice of the members of council representing the branch to which the applicant seeks admission or a majority of them may, having regard to the examinations passed by the applicant to obtain his university degree, grant exemption to him from the prescribed examinations required for registration as a member of the Association or from some of such examinations. R.S.O. 1950, c. 292, s. 10. Credit for examinations passed at university

**11.** Any person resident in Ontario who is a duly registered member of an association of professional engineers in any province of Canada similarly constituted to this Association, Members of associations of other provinces

may upon application made to council be admitted to membership upon satisfactory proof of residence and of membership in such association. R.S.O. 1950, c. 292, s. 11.

Members of  
other asso-  
ciations

**12.** Any person resident in Ontario who is a registered member of any association or institute in other parts of the Commonwealth or in the United States of America similarly constituted to this Association and which grants reciprocal privileges, and who applies for membership in this Association, may be admitted to membership upon producing to council satisfactory proof of such residence and of membership in such association or institute. R.S.O. 1950, c. 292, s. 12.

#### GRADUATES, STUDENTS AND APPRENTICES

Recording  
persons  
with the  
Association

**13.** Persons who are engaged as apprentices or assistants to professional engineers and who contemplate writing the prescribed examinations of the Association and undergraduates and graduates who have not completed the full five years of engineering experience within the meaning of this Act and who contemplate applying for registration on the completion of such experience may be recorded with the Association but not as members of the Association until fully qualified, and upon being recorded shall be subject to the control of the council and to the by-laws of the Association. R.S.O. 1950, c. 292, s. 13.

#### LICENSING

Members of  
associations  
of other  
provinces  
not resi-  
dent in  
Ontario

**14.—(1)** Any person resident in Canada but not in Ontario who is a registered member of an association of engineers similarly constituted of any other province of Canada may upon application obtain from the registrar a licence to practise as a professional engineer in Ontario upon production of evidence of his registry in such other province.

Consulting  
specialist not  
resident  
in Canada

**(2)** Any person who is not resident in Canada, but who in the opinion of the members of council in any branch is recognized as a consulting specialist in such branch of engineering, and has had not less than ten years of experience in the practice of his profession, or who presents evidence to satisfy such members of council that he has equal qualifications with those required for registration in such branch of the profession, may, with the approval of the members of council of such branch, be granted a licence to practise in that branch.

Person from  
province  
where no  
association

**(3)** Any professional engineer who is resident in a province of Canada in which there is no association of engineers similarly constituted to the Association may obtain a licence to practise in a branch of engineering, subject to the approval of the members of council representing such branch.

(4) In the event of an applicant for a licence failing to obtain it promptly for any reason unrelated to his professional capacity or his own neglect he may practise as a professional engineer in Ontario for a period of not more than three months without such licence. Practise by applicant for licence

(5) Any such licence granted under the provisions of this section shall be in the form and be limited to the period and for the work provided by subsection 4 of section 22. R.S.O. 1950, c. 292, s. 14. Form and conditions of licence

**15.** Any person who is employed as a professional engineer by a public service corporation, public utilities or Government department, who is by reason of his employment required to practise as a professional engineer in provinces other than that of his residence, may so practise in Ontario without holding a non-resident licence or payment of fee, providing such person can on demand of the council produce credentials satisfactory to the council showing that he is a registered member of an association of engineers similarly constituted by some other province of Canada. R.S.O. 1950, c. 292, s. 15. Employee of public service corporation, etc.

#### MEMBERSHIP

**16.—(1)** Only a person who is a member of the Association or who has obtained a licence is entitled to take and use the title "Professional Engineer", or "Registered Professional Engineer" or any abbreviation thereof, or except as herein otherwise provided to take and use the title "Engineer" or any abbreviation thereof in such context or in such a manner as to lead to the belief that he is a professional engineer. Use of titles

(2) Each member of the Association shall have a seal, the impression of which shall contain the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario", with which seal he shall stamp all official documents and plans, and the design of such seal shall be approved by the council. R.S.O. 1950, c. 292, s. 16. Seal

**17.** A person applying for membership who has served in an engineering capacity with the armed forces of Canada or her allies during World War II shall be granted as part of the term of employment required before registration the whole time of such service or such part thereof as the council may direct. R.S.O. 1950, c. 292, s. 17. Members of the forces

#### PARTNERSHIPS, CORPORATIONS

**18.—(1)** A partnership, an association of persons or a corporation, as such, shall not be deemed to be a member of the Association or be licensed to practise. Partnerships, corporations, etc.

Idem

(2) A partnership, an association of persons or a corporation may practise professional engineering in its own name if one of its principal and customary functions is to practise professional engineering and the practice is done under the responsibility and supervision of a member of the partnership or association or a director of the corporation or under the responsibility and supervision of a full-time permanent employee of the partnership, association or corporation who in either case is a member of the Association or is licensed to practise. 1952, c. 79, s. 2.

## EXAMINATIONS

Board of  
examiners

**19.** The council shall appoint annually a board of examiners from nominations made by members of council representing each of the branches. R.S.O. 1950, c. 292, s. 19.

Examina-  
tions

**20.—(1)** Examinations of candidates for registration or for licence shall be held at least once a year at such place or places as the council directs.

Scope of  
examina-  
tions

(2) The scope of the examinations and the methods of procedure shall be prescribed by the board of examiners, subject to the approval of council, with special reference to the applicant's ability to design and supervise engineering works that will ensure the safety of life and property.

Board to  
examine  
degrees,  
diplomas,  
etc.

(3) The board shall examine all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration or licence to practise, if referred to them by the council, and may require the holder of such degree, diploma, certificate or other credentials to attest on oath, orally or by affidavit concerning the matter of his application.

Candidate  
to submit to  
examination

(4) The candidate shall submit to an examination before the board, or before such members of the board as may be deputed by the council to conduct such examination, on such branch or branches of professional engineering as the candidate may select.

Result of  
examination  
to be filed  
with  
secretary

(5) As soon as possible after the close of each examination the members of the board who have conducted such examination shall make and file with the secretary a certificate stating the result of such examinations, whereupon the council shall notify each candidate of the result of his examination and of their decision upon his application.

Failure

(6) A candidate failing on examination may after an interval of not less than nine months be examined again.



(7) The council shall from time to time prescribe the fees <sup>Fees</sup> payable by candidates for examination, which fees are payable in advance by the candidates. R.S.O. 1950, c. 292, s. 20.

**21.** The council has power to establish conjointly with <sup>Central examining board</sup> any council of any association similarly constituted in one or more of the provinces of Canada a central examining board, and to delegate to such central examining board all or any of the powers possessed by the said council respecting the examinations of candidates for admission to practise, provided that any examination conducted by such central examining board shall be held in at least one place in Ontario. R.S.O. 1950, c. 292, s. 21.

#### REGISTER AND REGISTRAR

**22.**—(1) The registrar shall issue to each member admitted <sup>Certificate of membership</sup> to the Association a certificate of membership signed by the president or a vice-president and the registrar, and bearing the seal of the Association.

(2) Every member shall keep his certificate of member- <sup>Certificate to be displayed</sup> ship prominently displayed in his place of business.

(3) Every certificate of membership is the property of the <sup>Property in certificate</sup> Association and shall be returned forthwith by the member to the Association when his membership ceases.

(4) The registrar shall issue a licence to practise to any <sup>Licences</sup> person entitled thereto, such licence to specify the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued.

(5) The registrar shall enroll in the register provided by <sup>Names of licensees and members to be enrolled in register</sup> the council the names of all persons admitted to the Association by the council and the names of all persons licensed by the council.

(6) The registrar shall keep a record of persons engaged <sup>Record of apprentices, assistants, undergraduates, graduates</sup> as apprentices or assistants to professional engineers, and undergraduates and graduates who make application to be recorded pursuant to section 13. R.S.O. 1950, c. 292, s. 22.

**23.** The registrar shall keep the register correct and in <sup>Register to be correct</sup> accordance with the provisions of this Act and the instructions of the council. R.S.O. 1950, c. 292, s. 23.

**24.** The annual fee due from a member shall be deemed <sup>Annual fee deemed a debt due</sup> to be a debt due the Association and is recoverable with

the costs of same from such member in the name of the council or of the Association in any court of competent jurisdiction. R.S.O. 1950, c. 292, s. 24.

Non-  
payment  
of fees

**25.**—(1) Where the annual fee of any member is not paid within six months from the date upon which it became due, the secretary shall send a written notice of such default by registered mail to the member's last known address as shown on the register and if payment is not made within one month thereafter the registrar, upon the direction of the council, shall cause the name of the member to be erased from the register and thereupon the member ceases to be a member.

Resigna-  
tion

(2) Any member whose fees are paid up who desires to resign from the Association shall send written notice thereof to the secretary, whereupon the registrar shall cause the name of the member to be erased from the register and thereupon the member ceases to be a member.

Re-admis-  
sion

(3) Any member who ceased to be a member under subsection 1, upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any member who ceased to be a member under subsection 2, upon payment of the fee for the current year, and in either case upon production of evidence of good character satisfactory to the council, shall be re-admitted as a member. R.S.O. 1950, c. 292, s. 25.

Appeal

**26.** Where the council refuses,

- (a) to register any applicant for membership;
- (b) to register any applicant for re-admission; or
- (c) to issue a licence to practise to any applicant therefor,

the person aggrieved may apply to a judge of the Supreme Court who upon due cause shown may make an order directing the council to register the name of such person as a member or to grant a licence to practise, or may make such other order as may be warranted by the facts, and the council shall forthwith comply with such order and such order is final. R.S.O. 1950, c. 292, s. 26.

Evidence of  
registration

**27.** The certificate of registration under the seal of the Association is *prima facie* evidence of registration. R.S.O. 1950, c. 292, s. 27.

#### SUSPENSION OR EXPULSION

Reprimand,  
censure,  
suspension,  
expulsion

**28.**—(1) The council may, in its discretion, suspend or cancel the membership or licence of any person who has been guilty of unprofessional conduct, or of gross negligence or incompetence or of continued breach of the by-laws of the

Association, or any member or licensee convicted of a serious criminal offence by a court of competent jurisdiction, or may reprimand or censure such member or licensee.

(2) The council shall not take any such action until after <sup>Procedure</sup> a complaint under oath has been filed with the secretary or the registrar, and a copy forwarded to the member or licensee accused, who shall be given an opportunity of submitting evidence in his defence and the council shall not suspend or cancel a membership or licence without having previously summoned the member or licensee to appear before the council, nor without having heard evidence under oath offered in support of the complaint and in behalf of the member or licensee accused.

(3) The council has the same powers as commissioners <sup>Powers of council R.S.O. 1960, c. 323</sup> under *The Public Inquiries Act* to compel witnesses to appear and give evidence under oath in the manner and under penalties prescribed by such Act, and all such evidence shall be taken in writing or by a duly qualified stenographer.

(4) Any person whose membership or licence has been <sup>Appeal</sup> suspended or cancelled may within fifteen days after the date of the order of suspension or cancellation appeal to the Court of Appeal from such order and the practice and procedure in such appeal shall be the same as upon an appeal from the judgment of the Supreme Court judge presiding at a trial, and the Court of Appeal has power to confirm, vary, vacate or set aside such order or to make such other order as it may deem just, and to make an order for payment of the costs of the appeal, and there shall be no further or other appeal.

(5) Pending an appeal the member or licensee whose <sup>Pending appeal</sup> membership or licence is suspended or cancelled may continue to practise, but unless the order of suspension or cancellation is set aside he shall not practise after the appeal has been disposed of, except that in the case of a suspension, he may practise upon and after the expiry of the period of suspension. R.S.O. 1950, c. 292, s. 28.

**29.** No action shall be brought against the council or <sup>No action</sup> any member or officer thereof for anything done under this Act or under any by-law passed in accordance therewith. R.S.O. 1950, c. 292, s. 29.

#### PENALTIES

**30.** Any person in Ontario who, not being registered as a <sup>Penalty when un-registered or unlicensed person practises</sup> member of the Association in Ontario, or licensed by the Association,

- (a) uses verbally or otherwise the title of professional engineer, or makes use of any addition to or abbreviation of such title, or of any words, name or designation that will lead to the belief that he is a professional engineer or a member of the Association, or except as permitted by section 2 uses the title or designation "Engineer" in such a manner as will lead to the belief that he is a professional engineer or member of the Association;
- (b) advertises or holds himself out or, except as provided by section 2, conducts himself in any way or by any means as a member of the Association or professional engineer; or
- (c) engages in the practice of professional engineering,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$200 for the first offence, and of not less than \$200 and not more than \$500 or imprisonment for a term of not more than three months, or both, for any subsequent offence. R.S.O. 1950, c. 292, s. 30.

Penalty,  
partnerships,  
corporations,  
etc.

**31.** Every partnership, association of persons or corporation,

- (a) that practises professional engineering contrary to subsection 2 of section 18; or

being a partnership or association of persons not having as a member a person who is a member of the Association or is licensed to practise, or being a corporation not having as a director a person who is a member of the Association or is licensed to practise, or being a partnership, association of persons or corporation not having as a full-time permanent employee a person who is a member of the Association or is licensed to practise,

- (b) that uses verbally or otherwise any name, title, description or designation that will lead to the belief that such partnership, association of persons or corporation is entitled to practise professional engineering; or
- (c) that advertises, holds out or conducts itself in any way implying or intending to lead to the belief that such partnership, association of persons or corporation is entitled to practise professional engineering,

is guilty of an offence, and the partnership or the association of persons or any member thereof, or the corporation or any director thereof, on summary conviction, is liable to a fine of

not less than \$100 and not more than \$500 for a first offence, and of not less than \$200 and not more than \$1,000 or imprisonment for a term of not more than three months, or both, for any subsequent offence. 1952, c. 79, s. 3.

**32.** If the registrar makes or causes to be made wilful falsification of the register, or in matters connected therewith, he is guilty of an offence and on summary conviction is liable to a fine of not less than \$100. R.S.O. 1950, c. 292, s. 31. Wilful falsification of register

**33.** Any person who wilfully procures or attempts to procure for himself registration as a member in the Association by making, producing or causing to be made or produced any fraudulent representation or declaration, either verbal or written, and any person knowingly aiding and assisting him therein, is guilty of an offence and on summary conviction is liable to a fine of not less than \$200. R.S.O. 1950, c. 292, s. 32. Fraudulent representation as to qualifications for membership

**34.** Every fine recovered for an offence against this Act shall be paid over by the convicting magistrate to the Association. R.S.O. 1950, c. 292, s. 33. Penalties payable to Association

**35.** No proceedings shall be commenced for any contravention of the provisions of this Act after one year from the date of the committing of such contravention. R.S.O. 1950, c. 292, s. 34. Limit of time for commencement of proceedings

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## CHAPTER 310

**The Property and Civil Rights Act**

**1.** In all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario. R.S.O. 1950, c. 293, s. 1 (1). <sup>Rule of decision</sup>

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## CHAPTER 311

## The Provincial Aid to Drainage Act

## 1. In this Act,

Interpre-  
tation

- (a) "drainage work" means, except in section 6, the whole or any part of a drainage work to which *The Municipal Drainage Act* applies, in respect of which a report of an engineer or surveyor is made under that Act; R.S.O. 1960, c. 252
- (b) "Minister" means the Minister of Public Works. 1954, c. 74, s. 1; 1956, c. 67, s. 1.

## 2.—(1) Subject to subsection 2, this Act applies to,

Application  
of Act

- (a) any work in respect of the channels of a drainage work the main purpose of which is to drain agricultural lands;
- (b) any work for the purpose of rendering a drainage work more effective by embanking or pumping or other mechanical means, and in computing the cost thereof for the purpose of grants, the cost of all pumping machinery installed shall be included. 1954, c. 74, s. 2 (1).

(2) This Act does not apply to open or covered drains or a portion or portions thereof, the use of which is to drain other than agricultural lands, or to lateral drains. 1956, c. 67, s. 2. Exceptions

(3) For the purposes of this Act, any contribution in cash toward the cost of the work received by the municipality initiating the work shall be deducted from such cost. 1954, c. 74, s. 2 (3). Cash contributions to be excluded from cost

3. Where a grant is paid under this Act in respect of the cost of a drainage work that includes the cost of a work upon which a grant is payable under another Act of the Legislature, the grant payable under such other Act shall be reduced by an amount equal to that portion of the grant that was paid under this Act in respect of the cost of the part of the work upon which the grant is payable under the other Act. 1954, c. 74, s. 3. Where another provincial grant payable

4.—(1) Where the council of a municipality initiates a drainage work that is or includes a work to which this Act applies and wishes aid under this Act, it shall, within three Application by petition

months after passing a by-law for undertaking the work and before commencing the work, apply for aid by forwarding to the Minister a petition verified by statutory declaration of the engineer or surveyor and accompanied by a verified copy of the report, field plan and profile of the proposed work, and the engineer's or surveyor's assessment of the land.

Disqualified  
work to be  
shown

(2) The engineer or surveyor shall indicate on his plan and in his report any section of the work that is referred to in subsection 2 of section 2.

Emergency  
work  
R.S.O. 1960,  
c. 252

(3) Notwithstanding subsection 1, where the council of a municipality must perform emergency work under *The Municipal Drainage Act* before it is possible to obtain and adopt an engineer's report, it may submit a petition for aid in accordance with subsection 1 after the commencement of the work if it has notified the Minister within ten days after the commencement of the work. 1954, c. 74, s. 4.

Examination  
of work, etc.

5.—(1) Upon receipt of a petition forwarded in the manner and within the time specified in section 4, the Minister, if it appears to him that the drainage work is or includes a work to which this Act applies, may cause an examination thereof to be made by an engineer of the Department of Public Works, who shall report fully thereon and upon all the matters alleged in the petition. 1954, c. 74, s. 5 (1).

Payments

(2) Upon receipt by the Minister of a report mentioned in subsection 1 and upon the practical completion of the work, the Minister, where the grant does not exceed \$5,000, and the Lieutenant Governor in Council in other cases, may pay out of such moneys as are appropriated therefor by the Legislature to the treasurer of the initiating municipality,

(a) where the work is in a county,  $33\frac{1}{3}$  per cent of the cost of the work as described and limited in section 2; or

(b) where the work is in a municipality in a territorial district or a provisional county,  $66\frac{2}{3}$  per cent of the cost of the work as described and limited in section 2. 1954, c. 74, s. 5 (2); 1956, c. 67, s. 3.

Distribution  
and applica-  
tion of  
grant

(3) The grant shall be distributed by the initiating municipality to other interested municipalities on a *pro rata* basis, according to the engineer's assessment, and in each municipality the amount of the grant shall be applied to reduce the annual assessment on each property benefitting by the portions of the drainage work in respect of which the grant has been allowed, during the life of the by-law imposing the assessments. 1954, c. 74, s. 5 (3).

**6.**—(1) Where a drainage work is in territory without municipal organization, the Minister, if the amount of the aid does not exceed \$5,000, and the Lieutenant Governor in Council in other cases, may pay out of such moneys as are appropriated therefor by the Legislature an amount not exceeding 80 per cent of the cost of the drainage work as described and limited in section 2.

(2) The Minister may in his discretion from time to time prescribe the manner in which a drainage work shall be initiated and carried out and the manner in which and the terms and conditions under which aid may be given under subsection 1.

(3) In this section, "drainage work" means the whole or any part of a drainage work within the meaning of *The Municipal Drainage Act*, 1956, c. 67, s. 4.

Aid in  
unorganized  
territory

Initiation  
and aid

Interpre-  
tation  
R.S.O. 1960,  
c. 252

1871  
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## CHAPTER 312

**The Provincial Auctioneers Act**

**1.**—(1) The Minister of Agriculture may grant to any person, who in his opinion possesses special qualifications, a <sup>Provincial</sup> licence to sell pure-bred live stock only, by public auction in Ontario.

(2) Any person who resides in Ontario shall pay a fee of <sup>Fee</sup> \$50, and any person who does not reside in Ontario shall pay a fee of \$100, for a licence under this Act. R.S.O. 1950, c. 296, s. 1.

**2.** A licence under this Act remains in force only during <sup>Term of</sup> the calendar year of its issue. R.S.O. 1950, c. 296, s. 2, *amended.*

**3.** A person holding a licence under this Act shall not be required to take out an auctioneer's licence in any <sup>Municipal</sup> <sup>licence not</sup> <sup>required</sup> municipality for the sale of pure-bred live stock. R.S.O. 1950, c. 296, s. 3.

**4.** The Minister may revoke any licence under this Act <sup>Revocation</sup> <sup>of licence</sup> at any time for any cause appearing to him sufficient. R.S.O. 1950, c. 296, s. 4.

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## CHAPTER 313

**The Provincial Land Tax Act****1.—(1)** In this Act,Interpreta-  
tion

- (a) "Collector" means the Land Tax Collector appointed under this Act;
- (b) "land" includes the interest in land of a tenant or occupant, and the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land and all buildings, improvements, substructures, superstructures and fixtures of an owner in or on land; but does not include,
  - (i) the interest of a timber licensee, lessee, grantee or concessionaire in a licence, lease, or agreement issued under *The Crown Timber Act*,<sup>R.S.O. 1960, c. 83</sup> nor any right in timber cut or to be cut by the holder of, or party to such licence, lease or agreement, nor such improvements or equipment as lumber camps, tote roads, telephone lines, hoists, logging railways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such licence, lease or agreement,
  - (ii) subject to subsection 2, land that is liable for the acreage tax under *The Mining Tax Act*,<sup>R.S.O. 1960, c. 242</sup>
  - (iii) ores, mines, minerals or mining rights acquired in any land, and all buildings, improvements, substructures, superstructures, machinery and fixtures erected, made or installed in or on any land for mining purposes,
  - (iv) any fixed machinery that under *The Assessment Act* is exempt from taxation in an organized municipality,<sup>R.S.O. 1960, c. 23</sup>
  - (v) a power house or a dam or other work for the storage of water or for the conveyance of water to the power house or any works, machinery, plant or appliances erected, constructed or used for the development of water power,

- (vi) any schoolhouse, building used for educational or charitable purposes, railway right of way, railway siding and railway station grounds;
- (c) "Minister" means the Minister of Lands and Forests;
- (d) "owner" includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land;
- (e) "prescribed" means prescribed by the regulations made under this Act. R.S.O. 1950, c. 298, s. 1; 1953, c. 84, s. 1 (1).

## Exception

(2) Subclause ii of clause *b* of subsection 1 does not apply where the land or any part of it,

- (a) is used for a purpose other than mining or, if used for mining purposes, is also used for any other purpose; or
- (b) is land upon which there is timber, other than Crown timber, and the average value of such timber is more than \$2 an acre. 1953, c. 84, s. 1 (2).

Where Act  
does not  
apply

**2.** Taxes are not payable under this Act in respect of land situate in an organized municipality nor in respect of any place of worship or land used in connection therewith, or any churchyard, cemetery or burying ground. R.S.O. 1950, c. 298, s. 2.

Annual  
tax

**3.—(1)** There is payable by the owner in respect of any land to which this Act applies an annual tax not exceeding 2 per cent upon the value of the land or the taxable interest therein or upon such proportion of the value of the land or interest as the Lieutenant Governor in Council determines to be imposed and collected as hereinafter provided, but, subject to subsection 2 of section 1, such tax is not payable in respect of any of the lands, rights or property mentioned in subclauses i to vi of clause *b* of section 1, nor in respect of lands the owners of which are declared by the Lieutenant Governor in Council to be exempt from the tax. R.S.O. 1950, c. 298, s. 3; 1953, c. 84, s. 2 (1).

## Idem

(2) Notwithstanding subsection 1, where land to which this Act applies is in a provincial park, the Lieutenant Governor in Council may fix the rate of the annual tax at a rate not exceeding 4 per cent upon the value of the land or the taxable interest therein or upon such proportion of the value



of the land or interest as he determines, and he may fix a different rate for lands in different provincial parks. 1956, c. 68, s. 1.

(3) The Lieutenant Governor in Council shall fix the rate <sup>Rate of tax</sup> of the tax and the rate so fixed remains in force from year to year until changed by the Lieutenant Governor in Council.

(4) The minimum tax imposed under this Act in respect <sup>Minimum tax</sup> of land that contains 200 acres or less is \$6, and where the land contains more than 200 acres, the minimum tax is \$6 plus 3 cents an acre for every acre over 200. 1953, c. 84, s. 2 (2).

4. The Lieutenant Governor in Council may cancel, <sup>Refunds, etc.</sup> reduce or refund any part of the tax in respect of any part of a year in which taxes are not payable under section 2. 1955, c. 64, s. 1.

5.—(1) The Lieutenant Governor in Council may make <sup>Regulations as to exemption from tax</sup> regulations describing and determining the persons who and the land that are exempt from tax under subsection 1 of section 3.

(2) The Lieutenant Governor in Council may cancel any <sup>Cancellation of arrears</sup> arrears of tax, interest and penalties in respect of land exempted from taxation under this Act or any predecessor of this Act or any regulations made hereunder or thereunder, and may remit to any person any money paid by such person as tax, interest or penalties under such Acts in respect of lands exempted from taxation under such Acts or regulations. R.S.O. 1950, c. 298, s. 4.

6.—(1) In this section,

<sup>Interpretation</sup>

- (a) "pipe line" means every pipe forming part of any system for the purpose of the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing and includes,
- (i) all valves, regulators, couplings, cathodic protection apparatus, protective coatings, casings, curb-boxes, meters, and all incidental fastenings, attachments, appliances, apparatus and appurtenances,
  - (ii) all haulage, labour, engineering and overheads in respect of such pipe line,
  - (iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(b) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

Valuation  
of pipe  
line

(2) For the purpose of the tax under section 3, a pipe line or any part thereof not situate in an organized municipality shall be deemed to be land to which this Act applies and, notwithstanding any other provision of this Act relating to the value to be put upon any land for the purposes of this Act, the Lieutenant Governor in Council shall fix the valuation per foot of length at not more than the valuations set out in the following table and the valuation so fixed remains in force from year to year until changed by the Lieutenant Governor in Council:

Size of Pipe	Valuation per Foot of Length
$\frac{3}{4}$ ".....Nominal inside diameter.....	\$ .07
1"....." " ".....	.09
$1\frac{1}{4}$ "....." " ".....	.11
$1\frac{1}{2}$ "....." " ".....	.13
2" and $2\frac{1}{2}$ "....." " ".....	.17
3"....." " ".....	.46
4" and $4\frac{1}{2}$ "....." " ".....	.55
5" and $5\frac{5}{8}$ "....." " ".....	.83
6" and $6\frac{5}{8}$ "....." " ".....	.98
8"....." " ".....	1.24
10"....." " ".....	1.55
12"....." " ".....	2.31
14".....Outside diameter.....	2.34
16"....." " ".....	2.35
18"....." " ".....	3.26
20"....." " ".....	3.37
22"....." " ".....	3.47
24"....." " ".....	3.56
26"....." " ".....	3.69
28"....." " ".....	3.85
30"....." " ".....	4.03
32"....." " ".....	4.24
34"....." " ".....	4.46
36"....." " ".....	4.72

Pipe lines  
installed  
before 1940

(3) A pipe line installed before the year 1940 shall have the valuation that is fixed under subsection 2 but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of such valuation, with a maximum depreciation of 50 per cent.

(4) A pipe line installed in 1940 or after that year shall have the valuation that is fixed under subsection 2 with no allowance for depreciation. Pipe lines installed after 1939

(5) A pipe line removed from one location and reinstalled in another location shall, where depreciation is applicable, continue to be depreciated in accordance with subsection 3 as though remaining in its original location. Pipe lines removed and installed in another location

(6) A pipe line that has been abandoned in any year ceases to be liable for the tax effective with the year next following the year in which the pipe line was abandoned. Pipe lines abandoned

(7) Where a pipe line is located on, in, under, along or across a highway or any lands exempt from taxation under this Act, the pipe line is nevertheless liable to the tax under this Act. Liability to tax of pipe line on exempt land

(8) Where a pipe line is placed on the boundary between a municipality and an area not being in a municipality or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between a municipality and an area not being within a municipality, although it may deviate so as in some places to be wholly or partly in the municipality or the area, such pipe line shall be deemed to be wholly in the municipality. Pipe lines on municipal boundary

(9) Land that is liable to the tax under this Act shall not have a greater valuation by reason of there being a pipe line located on, in, under, along or across it nor shall it have a lesser valuation by reason of the abandonment of the pipe line. Valuation of land occupied by pipe line  
1956, c. 68, s. 2.

7. The Lieutenant Governor in Council may appoint an officer to be known as the Land Tax Collector, and may appoint such other officers, clerks and servants as are deemed necessary for the administration of this Act. R.S.O. 1950, c. 298, s. 6. Land Tax Collector, appointment of

8.—(1) The Collector and every other officer appointed under section 7 shall at all reasonable times and upon reasonable request be given free access to any land in order that its value may be determined for the purposes of this Act. Right of access

(2) Every adult person present on land when the Collector or other officer visits the land in order that its value may be determined for the purposes of this Act shall upon request give to the Collector or other officer all the information in his knowledge that will assist in a proper assessment of the land and that will enable him to obtain the information required with respect to any person whose name is required to be entered in the register. Information to be given

## Offence

(3) Every person who wilfully obstructs or interferes with the Collector or other officer in the performance of his duties under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1952, c. 80, s. 1.

Return  
by owner

9.—(1) Every owner of land in respect of which taxes are payable under this Act shall, on or before the 1st day of September preceding the year in which the value of the lands for assessment purposes is to be fixed under this Act, transmit to the Collector a statement in the prescribed form setting out the land of which he is owner, the number of acres included therein, and the value thereof, including the value of any improvements, buildings, clearing, fencing, works and structures of every kind.

Statement  
of owner  
hereafter  
acquiring  
land

(2) Every person who, after the 3rd day of April, 1928, becomes the patentee or grantee from the Crown of land in respect of which taxes are payable under this Act and every person other than such patentee or grantee from the Crown to whom after that date any such land is assigned, transferred or conveyed shall, on or before the 1st day of September following the date on which he so becomes the owner, transmit to the Collector the statement provided for in subsection 1.

## Forms

(3) Printed forms of return shall be supplied by the Collector upon request of the owner.

Statement as  
to change in  
ownership

(4) Where any person assessed as an owner of land under this Act assigns, transfers or otherwise conveys his interest in such land, he shall give notice to the Collector of such assignment, transfer or conveyance and the name and post office address of the person to whom the same was made, and in default such owner may be held liable for all taxes then payable or thereafter imposed in respect of such land until such notice is given.

Return as  
to lands  
exempt

(5) Where the owner of any land claims that it has become exempt from taxation under this Act, he shall transmit the statement required by subsection 1 or subsection 2 to the Collector and shall state on such return that he claims that the land is exempt and give his reasons therefor, and in default of transmitting such statement the owner is liable for the taxes, subject however to any determination that the Minister may make if a return is subsequently filed. R.S.O. 1950, c. 298, s. 7.

Right to  
search regis-  
try and land  
titles office  
free of  
charge

10. Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners of land liable to taxation under this Act, search and inspect registry books and indexes in registry offices and books and documents in the custody of masters of titles, and

no charge shall be made by and no fee is payable to a registrar or master of titles for any such search or inspection. R.S.O. 1950, c. 298, s. 8.

**11.**—(1) The Collector shall check and verify the returns received by him from owners and is not bound to accept any such return as determining the value of any land or improvements or works for the purpose of fixing the amount of taxes payable under this Act. Returns, verification by Collector

(2) The value to be put upon any land for the purposes of this Act shall be the price that it might reasonably be expected to bring if offered for sale in the open market by a solvent owner. Valuation of land

(3) Where any industry, including manufacturing of pulp, lumbering, saw mills, fisheries or other operations is carried on, the land and improvements shall be valued as the property of a going concern. R.S.O. 1950, c. 298, s. 9. Valuation of improvements

**12.** The Collector shall keep in his office a register in the prescribed form in which shall be entered the name of every owner making a return under this Act with such other particulars as may be prescribed. R.S.O. 1950, c. 298, s. 10. Register to be kept by Collector

**13.**—(1) Subject to section 3, where the return of an owner has been accepted by the Collector, the value of his land or of his interest therein as shown in such return shall be the assessed value thereof until a subsequent return is made by the owner as required by section 9. Assessed value of land

(2) If the value of land shown in the return of an owner is not accepted, notice of dispute shall be sent by the Collector by registered mail to the owner at his last known address within ninety days of the receipt of the return, and the Collector shall state in the notice the value at which he assesses the land for the purpose of taxation under this Act, and unless a complaint is filed by the owner as provided in this section such assessed value shall be the assessed value of the land until the next ensuing triennial assessment. Disputed value of land

(3) Where a return is filed under subsection 2 of section 9 and the value of the land shown therein is disputed by the Collector, the Collector shall value the land in accordance with section 11 and such value shall be the assessed value thereof until the next ensuing return is made by the owner for the purposes of a triennial assessment. Value of land under s. 9, subs. 2

(4) Where there has been a rapid depreciation in the value of land and the improvements thereon by reason of damage or destruction or where an incorrect return has been made, the Altering assessments

Collector may alter the assessment of an owner at any time to the reasonable value of his land and improvements.

Improve-  
ments made  
after assess-  
ment

(5) Where an owner whose land is subject to taxation under this Act makes improvements thereon, he shall during the same calendar year notify the Collector of the value thereof, and his assessment shall be altered to include the value of such improvements which shall be subject to taxation in the next ensuing year.

Complaints

(6) Every owner who has filed a return as required by section 9 who desires to complain as to his assessment shall, on or before the 1st day of May in the year fixed for a triennial assessment, send to the Collector by registered mail a notice of complaint in the prescribed form.

Correction  
of errors

(7) Notwithstanding the sending of any notice provided for in this section, the Collector, at any time before the date for the hearing of any complaint has been fixed, may correct any errors in or otherwise alter any assessment, and he shall do so upon notice being given to him of any errors and upon so correcting or altering any assessment he shall send by registered mail to the person assessed particulars of the correction or alteration. R.S.O. 1950, c. 298, s. 11.

Notice of  
hearing of  
complaints

**14.** Where complaints are transmitted to the Collector within the time hereinbefore limited, the Collector shall, at least fifteen days before the date of the hearing of the complaint, notify each person who has made a complaint of the time and place at which the judge of the county or district court shall sit for the tax division for the purpose of hearing complaints with regard to the value of the land in respect of which the owner is taxable. R.S.O. 1950, c. 298, s. 12.

Hearing

**15.—**(1) The judge shall attend at the time and place arranged by the Collector for the hearing of such complaints, and, if no complaints are received within the time hereinbefore limited therefor, the sittings may be cancelled.

Finality  
of decision

(2) The assessment as determined by the judge is final and binding and is not open to question or dispute in any action or proceeding or otherwise, and shall be deemed to be the assessable value of the land for the purpose of this Act for the year for which the assessment is made and for each year thereafter until the next following triennial assessment comes into effect. R.S.O. 1950, c. 298, s. 13.

When  
assessment  
to be made

**16.—**(1) Where statements are required to be filed under subsection 2 of section 9, assessments may be made at any time. R.S.O. 1950, c. 298, s. 14 (1).

(2) Subject to subsection 1, assessments under this Act shall be made triennially and the triennial periods of assessment shall commence,

Triennial  
assessments

- (a) in the year 1959, in the territorial districts of Kenora, Rainy River, and Thunder Bay;
- (b) in the year 1960, in the territorial districts of Algoma, Cochrane, Sudbury, and Timiskaming; and
- (c) in the year 1961, in the parts of Ontario not mentioned in clauses *a* and *b*. 1958, c. 82, s. 1.

**17.** The judge upon the hearing of any complaints under this Act has the like powers as nearly as may be as in the case of a judge sitting for the hearing of appeals from the court of revision under *The Assessment Act* and the procedure for the hearing of complaints under this Act shall be, as nearly as may be, the same as the procedure under *The Assessment Act*, except that the judge, in the absence of the consent of the Collector or his agent, shall hear such complaints only as are included in the list of assessments provided by the Collector as required by section 18. R.S.O. 1950, c. 298, s. 15.

Powers of  
judge

R.S.O. 1960,  
c. 23

**18.** The Collector or his agent shall attend at every sittings of the judge and shall have with him at the sittings a list of assessments as to which notices of appeal have been given as above provided, containing the names of the owners of land liable to assessment and taxation in the tax division for which the sittings are held, and he shall correct, alter and amend the roll in accordance with the directions of the judge. R.S.O. 1950, c. 298, s. 16.

Attendance  
of Collector  
at hearing of  
complaints

**19.—(1)** The tax imposed by this Act shall be for the calendar year and a tax bill shall be mailed by the Collector post paid to every owner of land subject to taxation at his last known address on or before the 15th day of January in the year for which the tax is payable, and such tax bill shall show the assessed value of the land, the rate of taxation, the amount of the tax payable and such other information as may be prescribed. R.S.O. 1950, c. 298, s. 17 (1); 1955, c. 64, s. 2.

Tax bills

(2) The tax imposed by this Act becomes due and is payable on the 1st day of February in the year for which it is imposed. R.S.O. 1950, c. 298, s. 17 (2).

When tax  
is payable

**20.** Where any tax under this Act remains unpaid on the 1st day of March in the year for which it is payable, a penalty of five per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of March until paid and for all

Penalty  
and interest  
on unpaid  
taxes

purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. R.S.O. 1950, c. 298, s. 18.

Taxes and penalties to be lien on land

**21.**—(1) Every tax and penalty imposed by this Act is a special lien on the land upon or in respect of which such tax or penalty is imposed in priority to every claim, privilege, lien or encumbrance, heretofore or hereafter created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of the Minister or the Collector or of any other officer, clerk or servant appointed or assigned to any work in the course of the administration of this Act or by want of registration.

Owner liable for taxes and penalties

(2) The owner or any person entered on the records of the Collector as the owner of any land is personally liable for all taxes and penalties imposed by this Act in respect of such land, and the Collector may bring an action in his name of office for the recovery thereof in any court in which a debt or money demanded of a similar amount may be collected. R.S.O. 1950, c. 298, s. 19.

Collection by distress

**22.** In addition to the collection of arrears of taxes by action as hereinbefore provided, the Collector may distrain for the same and has the like powers in that regard as a collector of taxes for a municipal corporation. R.S.O. 1950, c. 298, s. 20.

Notice of forfeiture

**23.**—(1) Where taxes imposed under this Act remain unpaid for a period of two years or more, the Collector may cause to be filed on or before the 31st day of August in any year in the proper land titles office a caution or in the proper registry office a notice of intention to give notice of forfeiture, and thereupon he shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the proper land titles or registry office to be the owner of the land in respect of which the default has been made and to every person appearing from such search or inquiry to have an interest therein, stating that unless the total amount of tax, penalties, interest and costs due and payable under this Act are paid on or before the 31st day of August in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of September in the last-mentioned year by a certificate of the Deputy Minister under his hand and seal of office, and to the amount so due and payable there shall in every case be added and paid as costs the sum of \$10. 1952, c. 80, s. 2, *part.*

Publication of notice

(2) The Collector shall cause to be prepared a list of the lands in respect of which notices under subsection 1 have been



mailed and shall cause the list to be published in one issue of *The Ontario Gazette* not later than the 31st day of December next following the mailing of the notices and giving notice that unless the total amount of tax, penalties, interest and costs shown therein is paid on or before the 31st day of August in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of September in the last-mentioned year by a certificate of the Deputy Minister under his hand and seal of office. 1952, c. 80, s. 2, *part*; 1955, c. 64, s. 3.

(3) Where the total amount of tax, penalties, interest and costs remains unpaid after the 31st day of August in the year next following the publication of the list in *The Ontario Gazette* under subsection 2, the Deputy Minister by a certificate under his hand and seal of office may, on and after the 1st day of September next following, declare the lands and every interest therein forfeited to and vested in the Crown, and thereupon, subject to subsection 4, the land and every interest therein vests in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture is declared, and the land may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario. 1952, c. 80, s. 2, *part*; 1959, c. 77, s. 1 (1). Declaration  
of forfeiture

(4) Where a dominant tenement is forfeited, any easement appurtenant thereto passes to the Crown and, where a servient tenement is forfeited, the forfeiture does not affect any easement to which the servient tenement is subject. 1959, c. 77, s. 1 (2). Easements

(5) The proper master of titles or registrar of deeds shall upon receipt of the certificate duly register the same, and it is absolute and conclusive evidence of the forfeiture to the Crown of the land and every interest therein so certified to be forfeited, and is not open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture. 1952, c. 80, s. 2, *part*. Registration  
of certificate

**24.** A mortgagee, lienholder or other person being the holder of a mortgage or charge upon any land in respect of which the taxes imposed by this Act are or may be payable, has and possesses the same rights and remedies with respect to such taxes and the liability of the owner for the payment thereof as such mortgagee, lienholder or holder of a charge would have with regard to municipal taxes payable in respect to land in an organized municipality. R.S.O. 1950, c. 298, s. 22. Right of  
mortgagee  
with respect  
to taxes

Offence,  
not making  
returns

**25.** Every owner who refuses or neglects to make the return required by this Act within the prescribed period is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50 for every day in which he is in default in making such return. R.S.O. 1950, c. 298, s. 23.

Offence,  
false  
returns

**26.** Every owner who knowingly and wilfully makes a false return of any property liable for taxation under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 and in default may be imprisoned for a term of not more than six months. R.S.O. 1950, c. 298, s. 24.

Regulations

**27.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form of return to be made by owners of land under this Act;
- (b) prescribing the duties of the officers appointed for the administration of this Act and the collection of the taxes hereby imposed and the security to be given by such officers for the due performance of their duties and the due collection of and accounting for taxes received under this Act;
- (c) dividing the Province or any part thereof into tax divisions for the purposes of this Act;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 298, s. 25.

Delivery of  
tax bills

**28.—(1)** A tax bill shall be deemed to be delivered to an owner of land subject to assessment and taxation under this Act or to his agent or representative where it is mailed post paid to the last known address of such owner, agent or representative.

Delivery of  
notices

**(2)** Any notice of complaint or dispute as to valuation of land or any other notice required by or given under the provisions of this Act may be given by sending it by registered mail to the Collector, or to the last known address of the owner of the land or of any person interested in the land, as the case may be, and such notice shall be deemed to have been received when it was so mailed. R.S.O. 1950, c. 298, s. 26.

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## CHAPTER 314

## The Provincial Parks Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Lands and Forests;
- (b) "provincial park" includes provincial camp grounds, provincial picnic grounds and provincial camp and picnic grounds;
- (c) "public lands" means lands belonging to Her Majesty in right of Ontario, whether or not covered with water;
- (d) "regulations" means the regulations made under this Act. 1958, c. 83, s. 1.

2. All provincial parks are dedicated to the people of the Province of Ontario and others who may use them for their healthful enjoyment and education, and the provincial parks shall be maintained for the benefit of future generations in accordance with this Act and the regulations. 1958, c. 83, s. 2.

3.—(1) All provincial parks in existence when this Act comes into force shall continue to be reserved, set apart and known as provincial parks.

Parks  
dedicated  
to public  
Existing  
parks  
continued

(2) The Lieutenant Governor in Council may set apart as a provincial park any area in Ontario, may increase or decrease the area of any provincial park, and may delimit any provincial park.

New parks  
and addi-  
tions, etc.

(3) Land may be acquired under *The Public Works Act* for the purposes of this Act. 1958, c. 83, s. 3 (1-3).

Acquisition  
of land  
R.S.O. 1960,  
c. 338

(4) Notwithstanding *The Municipal Act*, a municipality may pass by-laws authorizing it to convey to the Crown for the purposes of a provincial park any unopened road allowance under its jurisdiction and control. 1959, c. 78, s. 1.

Road  
allowances  
R.S.O. 1960,  
c. 249

(5) For municipal purposes, any land set apart as a provincial park or added thereto shall, so long as it remains part of the provincial park, be deemed to be separated from any municipality of which it formed a part immediately before it became a provincial park or a part thereof.

Municipal  
purposes

(6) For judicial purposes, any land set apart as a provincial park or added thereto shall continue to form part of the

Judicial  
purposes

county, if any, of which it formed a part immediately before it became a provincial park or a part thereof. 1958, c. 83, s. 3 (4, 5).

Adminis-  
tration

4.—(1) Each provincial park is under the control and management of the Minister and shall be under the charge of a district forester or a superintendent designated by the Minister.

Idem

(2) Without limiting the generality of subsection 1, the district forester or the superintendent, with the approval of the Minister, may, in respect of the provincial park under his charge,

- (a) construct and operate on public lands golf courses, bowling greens or other facilities for sports or amusement;
- (b) construct and operate on public lands restaurants, refreshment booths, shops, sleeping accommodations and other facilities for the convenience of the public;
- (c) construct and operate on public lands toilet, dressing-room, picnic, camping, cooking, bathing, parking and other facilities for the convenience of the public;
- (d) acquire and operate boats, vehicles and other means of transportation in connection with the park;
- (e) make agreements with persons with respect to the establishment or operation by them of any works, facilities or services on public lands;
- (f) prescribe, by the erection, posting or other display of notices, the time or times of the day or year during which the park or any part thereof is open or closed, as the case may be, for the use of the public. 1958, c. 83, s. 4.

Access  
roads to  
provincial  
parks, in  
municipalities

5.—(1) The Minister and any municipality, with the approval of the Ontario Parks Integration Board, may enter into agreement for the construction or maintenance of a road or the reconstruction or maintenance of an existing road under the jurisdiction and control of the municipality for the purpose of providing access to a provincial park, and the provincial share of the cost thereof may be paid out of the moneys appropriated therefor by the Legislature.

Idem

(2) A road constructed, reconstructed or maintained under an agreement made under subsection 1 remains under the jurisdiction and control of the municipality.

Idem, in  
unorganized  
territory

(3) The Minister, with the approval of the Ontario Parks Integration Board, may arrange with the road commissioners

elected under *The Statute Labour Act* or with a person who is the owner of land in territory without municipal organization for the construction or maintenance of a road therein for the purpose of providing access to a provincial park, and the provincial share of the cost thereof may be paid out of the moneys appropriated therefor by the Legislature. 1960, c. 88, s. 1. R.S.O. 1960,  
c. 382

**6.**—(1) The Minister may receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest therein, for the purposes of a provincial park. Gifts

(2) Where only the surface rights in lands are received and taken by the Minister under subsection 1 and the mines and minerals are not vested in the Crown, subsection 1 of section 14 does not apply to such lands. 1958, c. 83, s. 5. Surface  
rights

**7.**—(1) The Minister may inquire into and ascertain all the facts concerning all leases and other agreements in respect of any lands in a provincial park. Inquiry into  
leases, etc.

(2) If the Minister is satisfied that any person claiming to be entitled to any rights in respect of public lands in a provincial park, or any person claiming under or through him, has been guilty of a fraud or imposition, or has contravened any of the conditions of his lease or other agreement, he may cancel such lease or other agreement and resume the land and dispose of it as if the lease or other agreement had never been made, and upon such cancellation all moneys paid in respect of such lease or other agreement remain the property of the Crown and the improvements, if any, on the land are forfeited to the Crown. Cancellation  
of leases

(3) Where a person refuses to deliver up land or where a trespasser is in possession, the Minister may obtain possession in a manner similar to that provided in section 26 of *The Public Lands Act*. 1958, c. 83, s. 6. Power to  
acquire  
possession  
R.S.O. 1960,  
c. 324

**8.** Except as provided by this Act or the regulations, no person shall use or occupy any public lands in a provincial park. 1958, c. 83, s. 7. Use and  
occupation  
of public  
lands

**9.** In a provincial park, the district forester, superintendent or other person in charge and every forest ranger have all the power and authority of a member of the Ontario Provincial Police Force. 1958, c. 83, s. 8. Police  
powers

**10.** Any person having the power and authority of a member of the Ontario Provincial Police Force may seize any motor or other vehicle, or any aircraft, or any boat, skiff, Seizure  
and confis-  
cation

canoe, punt or other vessel, or any equipment or appliance, or any other article used in contravention of this Act and found in the possession of a person suspected of having committed an offence against this Act or the regulations, and upon conviction therefor the magistrate may order the chattel so confiscated to be forfeited to the Crown in right of Ontario, and after the expiration of thirty days it may be disposed of in such manner as the Minister deems proper. 1958, c. 83, s. 9.

Roads and  
trails

**11.** The district forester or superintendent in charge of a provincial park may open or close to travel any road or trail in the provincial park that is not under the control of the Department of Highways. 1958, c. 83, s. 10.

Sale of  
liquor  
R.S.O. 1960,  
c. 217

**12.** No licence or other authority shall be issued for the sale of liquor as defined in *The Liquor Control Act* in a provincial park. 1958, c. 83, s. 11.

Conservation  
of wild life,  
etc.  
R.S.O. 1960,  
c. 158

**13.** Subject to *The Game and Fisheries Act* and the regulations thereunder, the Minister may take such measures as he deems proper for the protection of fish, animals and birds and any property of the Crown in a provincial park. 1958, c. 83, s. 12.

Prospecting,  
mining, etc.

**14.**—(1) Subject to the regulations, prospecting and the staking out of mining claims or the development of mineral interests or the working of mines in provincial parks is prohibited.

Licences of  
occupation

(2) A licence of occupation may be issued under the regulations to the recorded holder of a lawfully staked mining claim in a provincial park.

No title  
acquired in  
surface  
rights

(3) The staker or recorded holder of a mining claim or the holder of a licence of occupation issued to the recorded holder of a mining claim does not acquire any right, title or interest in or to the surface rights in the land.

Necessary  
use of  
surface  
rights

(4) Where it is necessary to interfere with the surface rights in any such land in order to carry on mining operations, the district forester or superintendent in charge of the provincial park in which the land is may permit such interference with the surface rights as he deems necessary. 1958, c. 83, s. 13.

Regulations

**15.**—(1) The Lieutenant Governor in Council may make regulations,

(a) for the care, preservation, improvement, control and management of the provincial parks;

- (b) regulating and controlling prospecting or the staking out of mining claims or the development of mineral interest or the working of mines in provincial parks;
- (c) prohibiting or regulating and controlling the occupation of public lands in provincial parks or designating areas therein in which land may be leased or occupied under licence of occupation and describing such areas by metes and bounds or in relation to highways, lakes, rivers or railways;
- (d) regulating and controlling the use of lands in provincial parks;
- (e) prohibiting the erection of buildings or structures in provincial parks, or regulating and controlling the nature, cost, type of construction or the location of buildings or structures that may be erected therein;
- (f) governing the granting, issue, form, renewal, transfer and cancellation of leases, licences of occupation and other rights to public lands in provincial parks and prescribing terms and conditions in connection therewith;
- (g) prohibiting or regulating and controlling the use or keeping of horses, dogs and other animals in provincial parks;
- (h) prohibiting or regulating and controlling the erection, posting or other display of notices, signs, sign-boards and other advertising devices in provincial parks;
- (i) prohibiting or regulating and controlling the use, setting out and extinguishment of fires in provincial parks;
- (j) prohibiting or regulating and controlling pedestrian, vehicular, boat or air traffic in provincial parks;
- (k) prohibiting or regulating and controlling and issuing permits for the use of vehicles, boats or aircraft or any defined class thereof in provincial parks;
- (l) for issuing permits to persons to enter and travel in provincial parks;
- (m) prohibiting or regulating, controlling and licensing trades, businesses, amusements, sports, occupations and other activities or undertakings in provincial parks;
- (n) regulating, controlling and licensing guides in provincial parks;

- (o) prescribing the fees or rentals payable for any licence, permit, lease or other right issued, made or given in respect of a provincial park;
- (p) prescribing the maximum periods of stay of persons, vehicles, boats, vessels or aircraft in provincial parks;
- (q) providing for the imposition and collection of fees for entrance into provincial parks of persons, vehicles, boats or aircraft;
- (r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

## Application

(2) Any regulation under subsection 1 may be made applicable to all provincial parks or to any provincial park or to any part of a provincial park. 1958, c. 83, s. 14.

## Offence

**16.**—(1) Every person who contravenes any provision of this Act or of the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

Restraint  
by action

(2) Where any regulation is contravened, in addition to any other remedy and to any penalty, the contravention may be restrained by action at the instance of the Minister. 1958, c. 83, s. 15.

Niagara and  
St. Lawrence  
Parks not  
affected

**17.** Nothing in this Act applies to or affects any park under the management of The Niagara Parks Commission or The Ontario-St. Lawrence Development Commission. 1958, c. 83, s. 16.

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## CHAPTER 315

## The Psychiatric Hospitals Act

## 1. In this Act,

Interpre-  
tation

(a) "applicant" means the person who signs the application for the admission of a patient into a psychiatric hospital or who voluntarily makes application for such admission;

(b) "inspector" means an inspector appointed under *The Mental Hospitals Act*;

R.S.O. 1960,  
c. 236

(c) "Minister" means the member of the Executive Council charged for the time being with the administration of *The Mental Hospitals Act*;

(d) "patient" means any person receiving care or treatment in or by a psychiatric hospital under the authority of this Act;

(e) "prescribed" means prescribed by this Act or by the regulations made under this Act. R.S.O. 1950, c. 301, s. 1.

2. The corporation of a city having a population of over 100,000, with the approval of the Lieutenant Governor in Council, may establish and equip a psychiatric hospital for the observation, temporary care and treatment of residents of the municipality suffering from psychiatric disabilities who are not ineligible under this Act for admission to such hospital and who, in the opinion of a legally qualified medical practitioner, are suitable subjects for and may be benefited by such observation, care and treatment. R.S.O. 1950, c. 301, s. 2.

City by-law  
establishing

3. Before a psychiatric hospital is established, the plans and site selected therefor shall be approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 301, s. 3.

Approval  
of plans  
and site

4.—(1) Upon the completion of the erection and equipment of a psychiatric hospital, the Lieutenant Governor in Council shall designate it as "The.....Psychiatric Hospital" (*inserting the name of the municipality*) and shall describe by metes and bounds the premises which shall be deemed to be included in such designation.

Designation  
by  
Lieutenant  
Governor  
in Council

(2) The psychiatric hospital is thereafter under the control of the Minister. R.S.O. 1950, c. 301, s. 4.

Minister  
to be in  
control

Cost of  
mainten-  
ance

**5.** The cost of maintenance of a psychiatric hospital, in excess of the amount provided by or on behalf of patients admitted for treatment therein and by the city, shall be paid out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1950, c. 301, s. 5.

Accounts  
to be kept

**6.** A separate account shall be kept in the office of the inspector for every psychiatric hospital and there shall be credited to the account,

- (a) the income received from or on behalf of the patients admitted or treated therein;
- (b) the income received from the municipality for the maintenance of patients who are treated in the hospital;
- (c) the legislative grant; and
- (d) moneys received from any other source. R.S.O. 1950, c. 301, s. 6.

Application  
of receipts

**7.** Moneys received from any other source than the legislative grant shall be paid monthly by the bursar of the hospital and by the inspector to the Treasurer of Ontario and any balance remaining in the possession of the bursar or the inspector at the close of the fiscal year shall be forthwith paid to the Treasurer of Ontario. R.S.O. 1950, c. 301, s. 7.

Appoint-  
ment of  
officers

**8.** The Lieutenant Governor in Council may from time to time appoint a superintendent and bursar and such officers and employees as he may deem necessary for the psychiatric hospital and may fix their salaries and prescribe their powers and duties. R.S.O. 1950, c. 301, s. 8.

Admission  
to hospital

**9.—(1)** Any person who is, or who is believed to be, in need of such treatment as is provided in a psychiatric hospital and who, except in the cases provided for in clauses *b* and *e*, has been a resident of the municipality in which the psychiatric hospital is located for three months in all within the period of five months prior to the date of application for admission may be admitted thereto for such treatment,

- (a) as a voluntary patient upon application in the prescribed form;
- (b) upon the warrant of the Lieutenant Governor;
- (c) upon the certificate of a legally qualified medical practitioner in the prescribed form and accompanied by the prescribed application and history form and upon provision being made for payment of the main-

tenance of the patient at such rate as may be fixed by the inspector, subject to the provisions of this Act and the regulations;

- (d) upon the certificate mentioned in clause *c* and the written order of the inspector directing the transfer of a patient from a general hospital to the psychiatric hospital where the period during which the patient is in the general hospital does not form part of a term for which he was sentenced to serve in a jail or other penal institution; or
- (e) upon the order of a judge or magistrate having jurisdiction in the municipality in which the hospital is located, accompanied by the prescribed history form, remanding a person to a psychiatric hospital for further observation, care or treatment where the person has been apprehended either with or without warrant by a constable or other police officer and is under the age of seventy years and not ineligible for treatment in a psychiatric hospital under the provisions of this Act and it appears to the judge or magistrate that the person may be mentally ill, and any person so remanded shall be deemed to be a resident of the municipality in which the order for such remand is made.

(2) The certificate mentioned in clause *c* of subsection 1 is sufficient authority to a police officer or to any other person to convey a person to a psychiatric hospital and to the authorities of the hospital for his detention therein.

Authority  
to convey  
patient to  
hospital

(3) Where a person admitted to a psychiatric hospital under clause *e* of subsection 1 appears to the superintendent to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, he shall direct the medical examination of the person and proceed in the same manner generally as is provided in section 23 of *The Mental Hospitals Act* and, if the person is certified to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, as provided by that Act, the documents mentioned in the said section shall be transmitted to the inspector who shall arrange for the transfer of the person to an institution under *The Mental Hospitals Act*.

Patient  
found to be  
mentally ill,  
etc.

R.S.O. 1960,  
c. 236

(4) A person admitted to a psychiatric hospital under clause *e* of subsection 1, who does not appear to the superintendent to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, shall be discharged forthwith into the care of the court by which he was remanded to the psychiatric hospital and the certificate of the

Discharge  
where  
patient not  
mentally ill,  
etc.

superintendent or of any legally qualified medical practitioner who is a member of the staff of the hospital is sufficient authority for the granting of the discharge.

Expenses  
to be paid  
by city

(5) The costs properly incurred under clause *e* of subsection 1 and under subsections 3 and 4 are payable by the city in which the patient was a resident at the time of his arrest. R.S.O. 1950, c. 301, s. 9.

Residents  
of Township  
of York

**10.**—(1) Any person who is a resident of the Township of York may be admitted to the Toronto Psychiatric Hospital in the manner prescribed by clauses *a* to *e* of subsection 1 of section 9, and any judge or magistrate having jurisdiction in the Township of York has authority to issue the order required by clause *e* of subsection 1 of section 9.

When  
admission  
may be  
refused

(2) The superintendent of the Toronto Psychiatric Hospital or the officer in charge of the admission of patients may refuse the admission of any person under this section when, in his opinion, there is not sufficient accommodation or when, in his opinion, the accommodation is sufficient only to provide for the admission of residents of the City of Toronto.

Application  
of certain  
provisions

(3) The provisions of subsection 5 of section 9 and of sections 13, 14 and 20 apply to The Corporation of the Township of York and with respect to patients in the hospital who are residents of the Township.

Application  
of general  
provisions  
of Act, etc.

(4) All the provisions of this Act and regulations not inconsistent with this section apply to any person admitted under this section. R.S.O. 1950, c. 301, s. 10.

Classifica-  
tion of  
patients

**11.** Patients receiving care and treatment in a psychiatric hospital may be divided into the following classes:

1. Outpatients or persons treated outside the limits of a psychiatric hospital or calling within the limits of the hospital for treatment from time to time but not residing therein.
2. Inpatients or patients treated and temporarily residing within the limits of the hospital.
3. Paying patients or persons whose maintenance is paid in some manner other than by the municipal corporation at the rate of \$1.50 per diem or more.
4. Indigent patients or persons whose maintenance is paid at less than \$1.50 per diem. R.S.O. 1950, c. 301, s. 11.

**12.** The superintendent of a psychiatric hospital has authority to transfer any patient to a public hospital for treatment and to again receive the patient into the psychiatric hospital when he has received the treatment, and the charges for the treatment of any such patient in a public hospital shall be paid by the patient unless he is an indigent person, in which case the charges are payable in the same manner as charges for an indigent patient are payable under *The Public Hospitals Act*. R.S.O. 1950, c. 301, s. 12.

Patient may be transferred to public hospital for treatment

R.S.O. 1960, c. 322

**13.** If a patient is unable to pay at the rate of \$1.50 per diem for his maintenance and there is no other person liable for his support who can make such payment, the municipal corporation is liable to the hospital at such rate. R.S.O. 1950, c. 301, s. 13.

Liability of municipal corporation

**14.** The municipal corporation is not liable for any charges for the maintenance, treatment or care of a patient beyond the period of ten days from the day of the admission of the patient to the psychiatric hospital. R.S.O. 1950, c. 301, s. 14.

When municipal corporation not liable

**15.—(1)** No person shall be admitted to a psychiatric hospital who is,

Who may not be admitted

- (a) certified to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act* or within the meaning of sections 13 and 14 of *The Private Sanitaria Act*;
- (b) an alcoholic habitue;
- (c) a drug habitue;
- (d) a person suffering from mental infirmities due to old age or from incurable disease for which general hospital or other institutional care is required;
- (e) a person suffering from tuberculosis or other communicable disease;
- (f) a mentally defective or feeble-minded person;
- (g) an epileptic;
- (h) a person who has been admitted to and discharged on probation from an institution under *The Mental Hospitals Act* and whose term of probation has not expired;
- (i) a person committed to a jail or other penal institution and who has been given a ticket-of-leave, paroled or granted a permit to work outside the limits of such jail or penal institution and whose term of imprisonment has not expired.

R.S.O. 1960, cc. 236, 307

Removal of  
ineligible  
patients

R.S.O. 1960,  
c. 236

Discharge of  
voluntary  
patients

Transfer of  
certain  
patients

Patient  
admitted  
on order

Committal  
to custody  
of friends

Patient  
admitted on  
warrant

Delivery of  
patient to  
custody of  
his friends

(2) Where it is found through the result of observation or treatment that a patient admitted to a psychiatric hospital comes within any of the classes mentioned in subsection 1, the inspector, upon the report of the superintendent, may by his warrant direct the removal of the patient to a general hospital or to an institution under *The Mental Hospitals Act*, or into the charge of his friends. R.S.O. 1950, c. 301, s. 15.

**16.**—(1) A patient admitted to a psychiatric hospital by voluntary application or upon the certificate of a legally qualified medical practitioner may be discharged by the superintendent when in his opinion the patient is in a fit mental condition to be discharged.

(2) Where in the opinion of the superintendent a patient is mentally ill, mentally defective or epileptic within the meaning of *The Mental Hospitals Act* or cannot be further benefited by observation and treatment in the psychiatric hospital and the patient was admitted as a voluntary patient or upon the certificate of a legally qualified medical practitioner as provided in clauses *a* and *c* of subsection 1 of section 9, the superintendent may cause the patient to be examined by two legally qualified medical practitioners and, if the medical practitioners certify, according to section 23 of *The Mental Hospitals Act*, that the patient is mentally ill, mentally defective or epileptic within the meaning of *The Mental Hospitals Act*, the inspector shall issue his warrant for the removal of the patient to an institution under *The Mental Hospitals Act*.

(3) A patient admitted on an order of the inspector may be discharged by the inspector or by him transferred back to the general hospital from which he was admitted.

(4) Where a patient has been admitted to a psychiatric hospital by voluntary application or upon the certificate of a legally qualified medical practitioner or on the order of the inspector, in lieu of being discharged he may be committed by the inspector to the custody of relatives or others capable of and legally responsible for the care and supervision of the patient.

(5) A patient admitted on the warrant of the Lieutenant Governor shall not be discharged from a psychiatric hospital without the written consent of the Attorney General.

(6) If the superintendent considers it conducive to the recovery of any person detained in a psychiatric hospital, except such persons as are admitted under clauses *b* and *c* of subsection 1 of section 9, that he should be committed for a time to the custody of his friends, the superintendent may allow him to return on trial to them upon receiving a written

undertaking in the prescribed form by one or more of the friends of such person that he or they will keep an oversight over him.

(7) If within six months from such temporary discharge the patient again becomes dangerous to be at large, the superintendent by whom he was discharged, by his warrant in the prescribed form directed to any constable or peace officer or other person, or to all constables or peace officers, may authorize and direct that the patient be apprehended and brought back to the psychiatric hospital from which he was temporarily discharged, and the warrant is an authority to anyone acting under it to apprehend the person named therein and to bring him back to the psychiatric hospital. R.S.O. 1950, c. 301, s. 16.

Recommittal  
to hospital  
from  
custody of  
friends

17. All moneys due to a psychiatric hospital for the maintenance of any patient for the necessary expenses incurred in his behalf are a debt due to the Crown and may be sued for and collected by the bursar of the psychiatric hospital or by the inspector from the patient or his estate or from any other person or municipal corporation liable therefor. R.S.O. 1950, c. 301, s. 17.

Collecting  
mainten-  
ance

18. If at any time after the admission of a person as a resident patient in a psychiatric hospital its superintendent finds that such person has real or personal property that requires to be administered and that such person cannot administer because of his confinement in the hospital, he may deliver to the Public Trustee a notice of admission and a financial statement of such person's affairs in the form provided by the regulations under *The Mental Hospitals Act* for use on the admission of certificated patients to an institution under that Act, together with,

Public  
Trustee as  
committee

R.S.O. 1960,  
c. 236

- (a) a certificate of such superintendent that based upon the examination and written reports of two medical practitioners, one of whom may be the superintendent, he is of opinion that such person is mentally incompetent or is, through mental infirmity arising from disease, age or other cause, or by reason of habitual drunkenness, or the use of drugs, incapable of managing his affairs; or
- (b) a writing under seal signed by such person appointing the Public Trustee as committee of such person's estate accompanied by a certificate of such superintendent that the person who has executed such writing under seal is aware of its contents and that in the opinion of the superintendent he was at the

time of such execution capable of understanding its nature and effect,

and the Public Trustee, upon receipt of such documents, shall be the committee of the estate of such person in the same manner and to the same extent as in the case of a person admitted as a certificated patient to an institution under *The Mental Hospitals Act*. 1960, c. 89, s. 1.

R.S.O. 1960,  
c. 236

Apprehension of  
escaped  
patient

**19.** If a patient in a psychiatric hospital, not being a voluntary patient, escapes therefrom or from any officer or servant of the hospital, such officer or servant or any other person may without warrant within forty-eight hours after the escape, or under a warrant in the prescribed form within three weeks after the escape, retake the escaped patient and return him to the hospital and he shall be detained therein under the authority by virtue of which he was detained prior to his escape. R.S.O. 1950, c. 301, s. 19.

Costs of  
conveying  
patients to  
and from  
hospital

**20.** The costs and expenses incurred in conveying a person to and from a psychiatric hospital shall be borne by the person or his estate, except in the case of a person admitted to a psychiatric hospital under clause *b*, *d* or *e* of subsection 1 of section 9, in which case such costs and expenses shall be borne by the municipal corporation subject to such recourse as the corporation may have against the person or any other person. R.S.O. 1950, c. 301, s. 20.

Regulations

**21.** The Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing forms and providing for their use;
- (b) for the appointment of officers, servants and employees of a psychiatric hospital and defining their duties and hours of service and regulating their conduct;
- (c) respecting the accommodation, care and treatment of patients admitted to a psychiatric hospital, for regulating the discipline and custody of persons who are admitted as patients in a psychiatric hospital or who are treated therein, and prescribing, subject to the provisions of this Act, the rates to be paid for the accommodation of patients;
- (d) prescribing the books and accounts to be kept in a psychiatric hospital and the manner in which the supplies necessary for the use and maintenance of the hospital and the officers and patients thereof shall be provided and accounted for;



- (e) prescribing penalties for the breach of any regulation;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 301, s. 21, *amended*.

**22.** The Minister may direct the establishment and maintenance of post-graduate courses and clinical and laboratory research at a psychiatric hospital to be carried on in accordance with any regulations that may be made respecting the same. R.S.O. 1950, c. 301, s. 22.

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## CHAPTER 316

**The Psychologists Registration Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Board of Examiners in Psychology appointed under this Act;
- (b) "certificate of registration" means a certificate of registration as a registered psychologist;
- (c) "registered psychologist" means a person who is registered under this Act. 1960, c. 90, s. 1.

**2.—**(1) There shall be a board known as the Ontario Board of Examiners in Psychology which shall be composed of five registered psychologists appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may fill any vacancies in the membership of the Board.

Board  
constituted

(2) At least two of the members of the Board shall be and at least two members shall not be principally engaged as members of the teaching staff of a university.

Qualification

(3) The Lieutenant Governor in Council may appoint a provisional board of five persons to whom the qualification provisions of this section do not apply and who shall hold office for a term of one year from the day this Act comes into force and until their successors are appointed. 1960, c. 90, s. 2.

Provisional  
board

**3.** The members of the Board from time to time are a corporation. 1960, c. 90, s. 3.

Corporation

**4.** A majority of the members of the Board is a quorum. 1960, c. 90, s. 4.

Quorum

**5.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

Regulations

- (a) fixing the term of office and remuneration of the members of the Board and providing for the payment of necessary expenses of the Board in the conduct of its business;
- (b) prescribing the powers of the Board and the procedure of the Board at its meetings;

- (c) providing for the issuance and renewal of certificates of registration and fixing the fees payable therefor;
- (d) providing for the holding of examinations and fixing the fees payable therefor;
- (e) governing the suspension or cancellation of certificates of registration, the causes and procedure therefor;
- (f) prescribing the duties and remuneration of examiners and other persons employed by the Board;
- (g) generally for carrying out the intent and purpose of this Act. 1960, c. 90, s. 5.

Qualification  
for  
registration

**6.** The Board shall grant a certificate of registration to any person who furnishes evidence satisfactory to the Board that he,

- (a) has received a doctoral degree based upon a programme of studies whose content was primarily psychological from an educational institution approved by the Board;
- (b) has had at least one year of experience acceptable to the Board; and
- (c) has passed the examinations required by the Board. 1960, c. 90, s. 6.

Idem, for  
first  
6 years

**7.—(1)** The Board shall grant a certificate of registration to any person,

- (a) who has satisfied the requirements of clause *a* of section 6 and who has had at least two years of experience acceptable to the Board; or
- (b) who has received a master's degree based upon a programme of studies whose content was primarily psychological from an educational institution approved by the Board and who has had at least four years of experience acceptable to the Board.

Repeal

(2) This section is repealed upon the expiry of six years from the 11th day of June, 1960. 1960, c. 90, s. 7, *amended*.

Power to  
refuse  
registration

**8.** The Board after a hearing may refuse to grant a certificate of registration to any person who is found by the Board to be liable to have his certificate suspended or cancelled for any of the causes mentioned in the regulations. 1960, c. 90, s. 8.

Appeal

**9.—(1)** If the Board refuses or neglects to register a person, refuses or neglects to renew the registration of a person or

suspends or cancels the registration of a person, the person aggrieved may, within three months from the day on which notice thereof was served, apply to a judge of the Supreme Court who upon due cause shown may make an order directing the Board to make the registration, renew the registration, remove the suspension or withdraw the cancellation, as the case may be, or may make such other order as is warranted by the facts.

(2) Every such order is final and conclusive and shall be <sup>Idem</sup> acted upon forthwith by the Board. 1960, c. 90, s. 9.

**10.**—(1) The Board shall keep a register in which shall be <sup>Register to be kept</sup> entered the name of every person who has been granted a certificate of registration.

(2) The register shall be open to inspection by any person <sup>Inspection of register</sup> upon reasonable notice to the Board. 1960, c. 90, s. 10.

**11.**—(1) No person shall represent himself to be a psycho- <sup>Prohibition</sup>logist unless he holds a certificate of registration.

(2) A person represents himself to be a psychologist when <sup>Idem</sup> he holds himself out to the public by any title, designation or description incorporating the words "psychological", "psychologist" or "psychology" and under such title, designation or description offers to render or renders services of any kind to one or more persons for a fee or other remuneration.

(3) This section does not apply to a duly qualified medical <sup>Exceptions</sup> practitioner or to a person in the course of his employment by the Government of Canada, the Government of Ontario or a university. 1960, c. 90, s. 11.

**12.** No person who holds a certificate of registration shall <sup>Treatment of mental disorders</sup> treat any person for any type of mental disorder for a fee or other remuneration except on the request of or in association with a duly qualified medical practitioner. 1960, c. 90, s. 12.

**13.** Nothing in this Act authorizes a person who holds a <sup>Practice of medicine not authorized</sup> certificate of registration to engage in any manner in the practice of medicine, surgery or midwifery. 1960, c. 90, s. 13.

**14.**—(1) Every person who contravenes any provision of <sup>Offence</sup> this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for the first offence and not more than \$500 for any subsequent offence.

(2) The fines recovered for offences under this Act shall <sup>Disposition of fines</sup> be paid to the Board. 1960, c. 90, s. 14.

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## CHAPTER 317

**The Public Accountancy Act****1. In this Act,**Interpre-  
tation

- (a) "Council" means The Public Accountants Council for the Province of Ontario;
- (b) "licensing date" means the 1st day of August, 1950;
- (c) "prescribed" means prescribed by the regulations made by the Council under this Act;
- (d) "public accountancy" means the investigation or audit of accounting records or the preparation of or reporting on balance sheets, profit and loss accounts or other financial statements, but does not include bookkeeping or cost accounting or the installation of bookkeeping, business and cost systems;
- (e) "public accountant" means a person who, alone or in partnership with others, carries on the practice of public accountancy and in connection with that practice offers his services for reward to members of the public, but does not include a person by reason of his practising public accountancy in respect of,
  - (i) any public authority or any commission, committee or emanation thereof, including a Crown company,
  - (ii) any bank, loan or trust company,
  - (iii) any transportation company incorporated by Act of the Parliament of Canada, or
  - (iv) any other publicly-owned or publicly-controlled public utility organization;
- (f) "qualifying body" means The Institute of Chartered Accountants of Ontario or The Certified Public Accountants Association of Ontario. R.S.O. 1950, c. 302, s. 1.

**2.** The Public Accountants Council for the Province of Ontario is continued under that name as a body corporate with power to acquire, hold and dispose of land. R.S.O. 1950, c. 302, s. 2. Council  
continued

Constitution  
of the  
Council

**3.**—(1) The Council shall consist of fifteen members,

- (a) eight of whom shall be appointed by The Institute of Chartered Accountants of Ontario;
- (b) five of whom shall be appointed by The Certified Public Accountants Association of Ontario; and
- (c) two of whom shall be elected in the prescribed manner by vote of the public accountants who are licensed under this Act and are not members of either qualifying body.

Qualification  
of members

(2) No person shall be appointed or elected a member of the Council unless he holds a licence under this Act.

Elected  
members

(3) No person who is a member of either qualifying body shall be elected under clause *c* of subsection 1. R.S.O. 1950, c. 302, s. 3.

Certification,  
of appoint-  
ment

**4.**—(1) The secretary of each body by whom a member or members of the Council is or are to be appointed shall certify in writing the name or names of the member or members so appointed.

of election

(2) The election of a member shall be certified in writing in the prescribed manner.

Certificate  
as evidence

(3) Every such certificate is for all purposes sufficient evidence of the appointment or election of the member or members named therein. R.S.O. 1950, c. 302, s. 4.

Exercise of  
power of  
appoint-  
ment

**5.** The Council or other governing authority of a body may exercise the power of appointment hereby conferred on that body. R.S.O. 1950, c. 302, s. 5.

Term of  
office

**6.**—(1) Every member of the Council shall hold office for a term of two years from the date of his appointment or election which is effective from the first ordinary meeting of the Council held in the term for which he was appointed or elected.

Idem

(2) Every member shall hold office until his successor is appointed or elected.

Re-appoint-  
ment and re-  
election

(3) A retiring member of the Council is eligible for re-appointment or re-election.

Vacancies

(4) Any vacancy in the office of a member of the Council shall be filled for the remainder of the term by the body that appointed him or by an election in the manner prescribed in clause *c* of subsection 1 of section 3, as the case requires.



(5) The Council may act notwithstanding a vacancy in its number occurring from any cause. R.S.O. 1950, c. 302, s. 6. <sup>Effect of vacancy</sup>

**7.—**(1) A member of the Council may at any time resign his office by giving notice to the Council. <sup>Resignation of member</sup>

(2) The Council may of its own motion and shall, in the case of an appointed member if so requested by the body by which the member was appointed, remove a member from his office for any prescribed cause. R.S.O. 1950, c. 302, s. 7. <sup>Removal of member</sup>

**8.** It is the duty of the Council to administer the provisions of this Act and in particular, but without limiting the generality of the foregoing, the functions of the Council include, <sup>Functions of Council</sup>

- (a) the grant or refusal of licences, in accordance with this Act;
- (b) the maintenance and, if thought fit, the publication of a roll of the persons for the time being licensed under this Act;
- (c) the prescription of the fees payable on the grant or renewal of licences under this Act;
- (d) the maintenance and improvement of the status and standards of professional qualifications of public accountants practising as such in Ontario;
- (e) the consideration of matters of common interest and concern to public accountants, and the submission of representations to any government department or public authority with reference to any such matters;
- (f) the provision of scholarships for students in public accountancy and of maintenance grants for such students whose means appear to the Council to be insufficient to enable them to pursue their studies;
- (g) the conduct and encouragement, whether by means of financial assistance or otherwise, of research in accountancy;
- (h) the exercise of the disciplinary powers conferred by this Act; and
- (i) the prosecution of offences under this Act. R.S.O. 1950, c. 302, s. 8.

**9.—**(1) The Council shall meet at such times and places as it may from time to time determine; provided that the Council shall hold at least one meeting in every period of <sup>Meetings of the Council</sup>

three months to consider and determine applications for licences under this Act.

Extra-ordinary meetings

(2) The president of the Council may at any time convene an extraordinary meeting of the Council at such time and place as he may, by notice to the members of the Council, direct, and the conditions as to giving such notice shall be as may be prescribed. R.S.O. 1950, c. 302, s. 9.

Voting at meetings of the Council

**10.**—(1) Except as otherwise expressly provided by this section, all matters that arise for decision at any meeting of the Council shall be decided by a majority of votes of members present and voting by show of hands.

Assent required for certain resolutions

(2) No resolution of the Council relating to,

- (a) any of the functions of the Council referred to in clause *h* or *i* of section 8;
- (b) the making of regulations under section 32;
- (c) the revocation or non-renewal of a licence granted under this Act; or
- (d) the granting of an exemption to any person pursuant to subsection 2 of section 15 from any of the conditions of section 15, or the approval of conditions subject to which such exemption shall be granted,

is valid unless approved by the votes of at least three-quarters of the members of the Council present and voting thereon.

Notice

(3) No resolution of the Council relating to any of the matters mentioned in subsection 2 is valid unless the notice calling the meeting at which the resolution is moved has specified the general nature of the business to be transacted thereat. R.S.O. 1950, c. 302, s. 10.

Officers

**11.**—(1) The officers to be elected from among the members of the Council shall be a president, a vice-president, a secretary and such other officers as the Council may deem necessary.

Election of officers

(2) The election of officers shall take place annually at the first ordinary meeting of the Council in each calendar year when all officers then in office shall retire but if otherwise qualified are eligible for re-election, and in the event of a tie vote for the election of the president or vice-president, the issue shall be decided by lot.

Term of office

(3) Subject to the provisions of this section, any officer elected by the Council shall continue in office for a term of one year and until his successor is elected.

(4) Every vacancy occurring in any office, by reason of the <sup>Vacancies</sup> incumbent dying, resigning or otherwise ceasing to be a member of the Council during his term of office, shall be filled for the remainder of his term by the Council from among its members. R.S.O. 1950, c. 302, s. 11.

**12.** At all meetings of the Council, eight members con- <sup>Quorum</sup>stitute a quorum. R.S.O. 1950, c. 302, s. 12.

**13.—**(1) The Council may from time to time appoint <sup>Committees</sup>committees from among its members.

(2) The Council may delegate to any such committee, <sup>Delegation to committees</sup>subject to such restrictions or conditions as the Council may think fit, any of its power or duties, other than those referred to in subsection 2 of section 10, and may dissolve any such committee. R.S.O. 1950, c. 302, s. 13.

**14.—**(1) The Council shall maintain a roll to be called <sup>Roll of public accountants</sup>"The Roll of Public Accountants in Ontario".

(2) The Council shall from time to time cause to be entered <sup>Entries on and erasures from roll</sup>on the roll the name and address of every person licensed under this Act and shall cause to be removed therefrom,

- (a) the name of every person licensed under this Act who has made application to the Council in the prescribed manner requesting the Council to remove his name from the roll; and
- (b) the name of every person whose licence under this Act has been revoked or has not been renewed in accordance with this Act,

and shall cause any other necessary alterations or corrections to be made therein. R.S.O. 1950, c. 302, s. 14.

**15.—**(1) Any person is, on application to the Council <sup>Qualifications for licence</sup>in the prescribed manner and upon payment of the prescribed fee, entitled to be licensed under this Act if the Council is satisfied,

- (a) that on the licensing date the applicant was a member of a qualifying body; or
- (b) that on the licensing date the applicant was carrying on the practice of public accountancy and in that connection maintained in Ontario, either alone or in partnership with others, a place of business at which his services as a public accountant could be engaged, and was of good repute and had been in practice as a public accountant for one year before the licensing date; or

- (c) that the applicant is a member of a qualifying body, having taken the regular courses and passed the final examinations of such body or of a body recognized by it for purposes of affiliation; or
- (d) that the applicant has passed an examination deemed by the Council to be not less than equivalent to the intermediate examination of a qualifying body and has practised or been employed in public accountancy in Ontario for a period of not less than three years.

Exemption  
from  
conditions

(2) The Council may, in special circumstances and subject to subsections 2 and 3 of section 10, either unconditionally or subject to such conditions as it may think fit, exempt any person from one or more of the conditions set forth in subsection 1.

Licensees  
from other  
jurisdictions

(3) The Council may by regulation prescribe the terms and conditions upon which any licensee of a state or province other than Ontario may be exempted from one or more of the conditions set forth in subsection 1, but no such regulation shall be made, amended or repealed unless approved by the votes of at least two-thirds of the members of the Council present and voting thereon. R.S.O. 1950, c. 302, s. 15.

Period of  
licence

**16.** Every licence granted or renewed under this Act becomes effective on and shall bear the date as of which it is granted or renewed and, unless revoked, remains in force until the date prescribed by the Council. R.S.O. 1950, c. 302, s. 16.

Renewal of  
licence

**17.** Any person who is, and is entitled to be, licensed under this Act and who applies to the Council in the prescribed manner and pays the prescribed fee is entitled to have his licence renewed, but nothing in this section prejudices or affects the power of the Council to revoke any licence in accordance with this Act. R.S.O. 1950, c. 302, s. 17.

Fees

**18.—(1)** The fee payable for the grant or renewal of a licence shall not exceed \$25.

Recovery  
of fees

(2) The Council may sue for and recover any unpaid fees in a court of competent jurisdiction. R.S.O. 1950, c. 302, s. 18.

Powers as to  
revocation  
of licence

**19.—(1)** If a person licensed under this Act,

- (a) has been convicted of a criminal offence;
- (b) becomes of unsound mind;
- (c) has been adjudged bankrupt or has made arrangement with his creditors; or

- (d) has been found on inquiry held by the Council to be guilty of conduct disgraceful to him in his capacity as a public accountant,

the Council may, subject to the provisions of this section, revoke his licence.

(2) Where the Council intends to revoke any licence in pursuance of clause *a*, *b* or *c* of subsection 1, the Council shall first cause a written notice of its intention to be served on such person in the prescribed manner and shall on application made by such person within one month from the date of the service of the notice consider any representations with regard to the matter that may be made by him to the Council, either in person or by counsel.

Notice of  
intention  
to revoke  
and hearing

(3) In any case in which it appears to the Council that a person licensed under this Act has been guilty of conduct disgraceful to him in his capacity as a public accountant, the Council may cause an inquiry to be held.

Inquiry

(4) Where an inquiry is to be held under this section, the Council shall forthwith cause to be served on the person concerned a written notice of the proposed inquiry specifying the time and place at which it is to be held and the subject-matter thereof, and the person concerned is on application entitled to be heard at the inquiry either in person or by counsel. R.S.O. 1950, c. 302, s. 19.

Notice of  
inquiry

**20.** Where the Council refuses the application of any person for the grant or renewal of a licence, or revokes any licence granted to any person, it shall forthwith cause written notice of such refusal or revocation to be served on such person. R.S.O. 1950, c. 302, s. 20.

Notice of  
refusal or  
revocation  
of licence

**21.—**(1) No person whose licence has been revoked shall, except as provided in this section, be granted a licence under this Act.

Effect of  
revocation

(2) A person whose licence has been revoked may, either on his application or on motion of the Council and after inquiry, be granted a new licence and his name may be restored to the roll at the discretion of the Council either without payment of a fee or on payment of such fee as the Council may determine. R.S.O. 1950, c. 302, s. 21.

New licence  
after  
revocation

**22.** Where the Council,

Appeal

- (a) refuses to grant a licence or a new licence;
- (b) refuses to renew a licence; or
- (c) revokes a licence,

the person aggrieved may, within three months from the day on which notice thereof was served on him, apply to a judge of the Supreme Court who upon due cause shown may make an order directing the Council to grant the licence, renew the licence or cancel the revocation of the licence, as the case may be, or may make such other order as may be warranted by the facts, and the Council shall forthwith comply with such order and such order is final. R.S.O. 1950, c. 302, s. 22.

Obtaining  
licence by  
false repre-  
sentation

**23.** If any person wilfully procures, or attempts to procure, the granting to him of a licence under this Act, or the renewal of such licence, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, he is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$250. R.S.O. 1950, c. 302, s. 23.

Failure to  
surrender  
licence

**24.**—(1) If any person ceases to be licensed under this Act, he shall, within fourteen days thereafter, transmit his licence to the Council for cancellation, and, if he fails to do so, he is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$25, and to a further fine of not less than \$3 and not more than \$5 for every day on which the offence continues after conviction.

Abuse of  
licence

(2) Any person who,

- (a) uses a licence issued under this Act to another person; or
- (b) allows a licence issued to him under this Act to be used by any other person; or
- (c) not being licensed under this Act, uses or has in his possession any document purporting to be a licence issued to him under this Act,

is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further fine of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction. R.S.O. 1950, c. 302, s. 24.

Restriction  
on use of  
title or  
carrying on  
business  
of public  
accountant

**25.**—(1) Subject to the provisions of this section, no person who is not licensed under this Act shall, within Ontario,

- (a) take or use the name or title of "Public Accountant";
- (b) practise as a public accountant; or
- (c) hold himself out as being licensed as a public accountant or use any designation or initials indicating or implying that he is licensed as a public accountant.

(2) Notwithstanding anything in this section, the Council may permit any person who is a non-resident of Ontario to practise as a public accountant within Ontario without a licence under this Act, subject to any terms and conditions that may from time to time be prescribed.

Permission  
for  
non-resident  
to practise

(3) Any person who contravenes the provisions of this section, without prejudice to any other proceedings that may be taken, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$250 for a first offence and to a fine of not less than \$200 and not more than \$500 for any subsequent offence.

Offence

(4) Where a contravention of this section by any person is occasioned by the fact that his licence has been revoked, it is a good defence to any proceedings in respect of such contravention to prove that, at the time when such contravention is alleged to have been committed, notice of the revocation had not been served in accordance with this Act or the regulations hereunder, or that the time for appealing from the revocation had not expired or an appeal therefrom had been brought and had not been determined. R.S.O. 1950, c. 302, s. 25.

Defence

**26.**—(1) It is not lawful for a body corporate to practise as a public accountant and any body corporate that contravenes the provisions of this subsection, without prejudice to any other proceedings that may be taken, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$250 for a first offence and to a fine of not less than \$200 and not more than \$500 for any subsequent offence.

Prohibition  
against a  
body  
corporate  
carrying on  
business  
as public  
accountant

(2) If a corporate body is guilty of an offence under subsection 1, every director or officer of the body corporate who consented to, or connived at or was responsible for the commission of, the offence shall be deemed to be a party to and guilty of the offence and is liable to be proceeded against and fined accordingly. R.S.O. 1950, c. 302, s. 26.

Liability  
of directors  
and officers

**27.** After the licensing date, no person is entitled to recover any costs incurred or charges made as a public accountant after that date unless such person was licensed under this Act at the time when such costs were incurred or when the services were rendered in respect of which such charges were made. R.S.O. 1950, c. 302, s. 27.

No costs,  
etc.,  
recoverable  
by  
unlicensed  
person

**28.**—(1) The Council shall maintain a fund into which all moneys received by the Council shall be paid and out of which shall be paid all administrative and establishment expenses

Finances

of the Council and all expenses incurred by the Council in carrying out its functions under this Act and all other liabilities properly incurred by the Council.

Management  
of fund

(2) The Council shall manage, administer and keep proper accounts of the fund.

Investment  
of moneys

(3) The Council may invest any moneys standing to the credit of the fund in any security in which trustees are authorized to invest.

Borrowing  
powers

(4) The Council may from time to time borrow any moneys required for the purposes of the Council and may mortgage, hypothecate, charge or pledge any or all of its property and assets to secure the amount so borrowed. R.S.O. 1950, c. 302, s. 28.

Payment of  
expenses,  
salaries and  
pensions

**29.—**(1) The Council shall pay,

(a) to the members of the Council such allowances for travelling and subsistence expenses incurred in the discharge of their functions; and

(b) to the secretary and any other officers and employees of the Council such salaries and remuneration and on retirement or death, such pensions and gratuities,

as the Council may determine.

Dependants  
of  
employees

(2) The Council may make provision for the dependants of any of its employees. R.S.O. 1950, c. 302, s. 29.

Audit of  
accounts

**30.** The accounts of the Council and of its officers and of any committee appointed by the Council shall be audited annually by a person licensed under this Act and appointed annually by the Council; provided that a member of the Council or a person who is in partnership with such a member is not eligible for appointment as auditor under this section. R.S.O. 1950, c. 302, s. 30.

Accounts to  
be furnished  
to qualifying  
bodies, etc.

**31.—**(1) Within three months after the end of each financial year, the Council shall forward a copy of the audited accounts of the Council for that year to each qualifying body and to the Provincial Secretary.

Copies

(2) Any person licensed under this Act is entitled upon demand to receive a copy of the audited accounts. R.S.O. 1950, c. 302, s. 31.

Regulations,  
etc.

**32.—**(1) Subject to the provisions of this Act, the Council shall or may, as the case may be, prescribe by regulation anything that is by this Act required or authorized to be prescribed and may make such further provisions as may seem



to the Council necessary or desirable for carrying out or facilitating any of the purposes of this Act.

(2) The Council shall on receipt of the prescribed charges <sup>Copies</sup> supply a copy of any regulations made under this Act and of any forms prescribed by such regulations to any person applying therefor.

(3) The Lieutenant Governor in Council may annul any <sup>Annulment</sup> regulation made by the Council under this Act. R.S.O. 1950, c. 302, s. 32.

**33.** Every regulation, licence, notice or other document <sup>Authen-  
tication of  
regulations  
and other  
documents</sup> made, granted or issued by the Council for any purpose whatsoever may be signed on behalf of the Council by the secretary or by such other officer of the Council as may from time to time be authorized by the Council so to do, and when so signed is *prima facie* evidence of such regulation, licence, notice or other document. R.S.O. 1950, c. 302, s. 33.

**34.**—(1) Any notice or document required to be given by <sup>Service of  
documents</sup> or for the purposes of this Act may be sent by prepaid mail and when so sent shall be deemed to be properly addressed if addressed to the person or body for whom intended at the last address of such person or body appearing in the roll or records of the Council.

(2) Any notice relating to, Idem

(a) the refusal to grant or renew a licence;

(b) the revocation of a licence; or

(c) the removal of the name of any person from the roll,

shall be sent by registered mail. R.S.O. 1950, c. 302, s. 34.

**35.** Nothing in this Act precludes a registered member <sup>Saving</sup> of the Society of Industrial and Cost Accountants of Ontario, or any other person, from practising as an industrial accountant, cost accountant or cost consultant, and from designating himself as such. R.S.O. 1950, c. 302, s. 35.

**36.** No action shall be brought against the Council or any <sup>Freedom  
from action</sup> member or former member thereof that is based on the refusal of the Council to grant or renew a licence or that is based on the revocation by the Council of a licence. R.S.O. 1950, c. 302, s. 36.

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## CHAPTER 318

## The Public Authorities Protection Act

1. In this Act, "justice of the peace" includes a magis-<sup>Interpreta-</sup>trate, a person who is *ex officio* a justice of the peace and a person who has by law the powers of a justice of the peace, either generally or with regard to any particular matter, and any other person authorized to hear and determine any argument or to try any offence. R.S.O. 1950, c. 303, s. 1.

2. No action shall lie or be instituted against a justice of the peace for any act done by him in the execution of his duty as such justice with respect to any matter within his jurisdiction as such justice, unless the act was done maliciously and without reasonable and probable cause. R.S.O. 1950, c. 303, s. 2.

3.—(1) For any act done by a justice of the peace in a matter in which by law he has not jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under a conviction or order made or a warrant issued by him in such matter, any person injured thereby may maintain an action against the justice in the same case as he might have heretofore done, and it is not necessary to allege or prove that the act was done maliciously and without reasonable and probable cause.

(2) Where a conviction or order has been made by a justice of the peace, and a warrant of distress or of commitment has been issued thereon by some other justice of the peace, *bona fide* and without collusion, no action shall be brought against the justice who issued the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the justice who made the same, but the action, if any, shall be brought against the justice who made the conviction or order.

(3) No such action as is mentioned in this section shall be brought for anything done under a conviction or order or under a warrant issued by a justice of the peace to procure the appearance of the party, which has been followed by a conviction or order in the same matter, until the conviction or order has been quashed.

(4) Where such warrant has not been followed by a conviction or order, or is a warrant upon an information for an indictable offence, if a summons was issued previously to the

warrant, and the summons was served upon such party, either personally or by leaving the same for him with some person at his last or usual place or abode, and he did not appear according to the exigency of the summons, no such action shall be maintained against the justice for anything done under the warrant.

Nor when  
order of  
protection  
made

(5) Notwithstanding this section, no action lies when an order has been made under section 7 for the protection of the justice. R.S.O. 1950, c. 303, s. 3.

Where  
acting under  
order of  
the court

**4.** Where a justice of the peace refuses to do any act relating to the duties of his office as such justice, the person requiring the act to be done may, upon affidavit stating the facts and upon six days notice to him and also to the party to be affected by the act, apply to a judge of the Supreme Court, or to the judge of the county or district court of the county or district in which the justice resides, for an order directing the act to be done. R.S.O. 1950, c. 303, s. 4.

Where con-  
viction, etc.,  
confirmed  
on appeal

**5.** Where a justice of the peace has issued a warrant of distress or a warrant of commitment upon a conviction or order that either before or after the issuing of the warrant has been confirmed upon appeal, no action shall be brought against such justice by reason of any defect in the conviction or order or for anything done under the warrant. R.S.O. 1950, c. 303, s. 5.

Where  
protection  
may be  
claimed  
notwith-  
standing  
defects in  
proceedings

**6.—(1)** No defect in an information taken before or in a warrant issued by a justice of the peace prevents him from claiming the benefit and protection of this Act if the court is of opinion that he acted in good faith and that the informant or complainant intended, by the facts stated to the justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would have been one within the jurisdiction of the justice, and in such case the informant or complainant is liable as if the information had charged in proper form the commission of the offence so intended to be charged.

Non-liability  
of informant  
where  
offence not  
properly  
described

(2) An action shall not be brought against a person who has in good faith laid an information before a justice of the peace or by reason of the information not containing a proper description of the offence or being otherwise defective. R.S.O. 1950, c. 303, s. 6.

Conditions  
on quashing  
convictions

**7.—(1)** Where an order is made quashing a summary conviction, the court may provide that no action shall be brought against the justice of the peace who made the conviction or against the informant or any officer acting thereunder or under any warrant issued to enforce the conviction or order.

(2) Such an order may be made conditional upon payment of the costs of the motion to quash or upon such other condition as may be deemed proper. R.S.O. 1950, c. 303, s. 7.

Order may be made conditional

8. If an action is brought where by this Act it is enacted that no action shall be brought, it may be stayed upon a summary application. R.S.O. 1950, c. 303, s. 8.

When action may be stayed upon summary application

9. Where the plaintiff is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as part of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, he is not entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of 3 cents as damages for the imprisonment, or any costs of suit, if it is proved that he was actually guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and, with respect to the imprisonment, that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay. R.S.O. 1950, c. 303, s. 9.

Damages nominal in certain cases

10.—(1) No action shall be brought against a constable, division court bailiff or other officer, or against any person acting by his order and in his aid, for anything done in obedience to a warrant issued by a justice of the peace or clerk of a division court until demand has been made or left at his usual place of abode by the person intending to bring such action or by his solicitor or agent in writing, signed by the person demanding the same, for the perusal and copy of the warrant and the same has been refused and neglected for six days after such demand.

Actions against constable, division court bailiff or other officer

(2) If, after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against such constable, bailiff or officer, or such person so acting, for any cause without making the justice or clerk who issued the warrant a defendant, on the production and proof of the warrant at the trial of the action judgment shall be given for the defendant notwithstanding any defect of jurisdiction in the justice or clerk.

Dismissal of action

(3) If the action is brought jointly against such justice or clerk and such constable or bailiff or other officer or person so acting, on proof of such warrant, judgment shall be given for the constable or bailiff or other officer and for the person so acting notwithstanding the defect in jurisdiction.

Action brought jointly against justice or clerk and constable or bailiff

## Costs

(4) If the judgment is given against the justice or clerk, the plaintiff, in addition to any costs awarded to him, is entitled to recover such costs as he is liable to pay to the defendant for whom judgment is given. R.S.O. 1950, c. 303, s. 10.

## Action for act done under public authority to be begun within six months

**11.** No action, prosecution or other proceeding lies or shall be instituted against any person for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, unless it is commenced within six months next after the act, neglect or default complained of, or, in case of continuance of injury or damage, within six months after the ceasing thereof. R.S.O. 1950, c. 303, s. 11.

## Persons obeying mandamus protected

**12.** No action or other proceeding shall be commenced or prosecuted against any person for or by reason of anything done in obedience to a mandamus or mandatory order. R.S.O. 1950, c. 303, s. 12.

Protection of those acting under *ultra vires* statutes

**13.** No action shall be brought against a judge, justice of the peace or officer for anything done by him under the supposed authority of a statute of Ontario or of Canada that was beyond the legislative jurisdiction of the Legislature or of the Parliament of Canada, as the case may be, if the action would not lie against him had the statute been within the legislative jurisdiction of the Legislature or Parliament that assumed to enact it. R.S.O. 1950, c. 303, s. 13.

## Applications for security for costs

**14.** Where an action is brought against a justice of the peace or against any person for any act done in pursuance or execution or intended execution of any public duty, statutory or otherwise, or authority, or in respect of any alleged neglect or default in the execution of any such statute, duty or authority, the defendant may at any time after the service of the writ apply for security for costs if it is shown that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favour of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous. R.S.O. 1950, c. 303, s. 14.

## Application of Act

**15.** This Act does not apply to a municipal corporation. R.S.O. 1950, c. 303, s. 15.

## Application of Act to sheriffs and their officers

**16.** A sheriff or his officer acting under a writ of execution or other process shall be deemed to be a person acting in the discharge of a public duty or authority within the meaning of this Act. R.S.O. 1950, c. 303, s. 16.

## CHAPTER 319

## The Public Commercial Vehicles Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Ontario Highway Transport Board;
- (b) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- (c) "Department" means the Department of Transport;
- (d) "goods" includes all classes of materials, wares and merchandise, live stock and milk;
- (e) "highway" means a highway as defined in *The Highway Traffic Act*; R.S.O. 1960,  
c. 172
- (f) "Minister" means the Minister of Transport;
- (g) "owner" means a person registered under *The Highway Traffic Act* as the owner of a motor vehicle;
- (h) "operating licence" means a public commercial vehicle operating licence issued under this Act;
- (i) "public commercial vehicle" means a commercial motor vehicle or trailer as defined in *The Highway Traffic Act*, operated on a highway by, for, or on behalf of any person for the transportation for compensation of goods of any other person and not confined in its operation to one urban zone, but does not include a commercial motor vehicle or trailer used only for the transportation from a farm or forest of goods other than live stock and milk that are the product of such farm or forest;
- (j) "regulations" means the regulations made under this Act;
- (k) "toll" means any fee or rate charged, levied or collected for the transportation of goods or for use of a public commercial vehicle;
- (l) "transportation" with respect to goods means the transportation, carriage, shipment, care, handling, storage or delivery thereof;

- (m) "urban zone" means an area consisting of one urban municipality and lands adjacent thereto and within a distance of three miles therefrom but does not include any part of any other urban municipality;
- (n) "vehicle licence" means a public commercial vehicle licence issued under this Act. R.S.O. 1950, c. 304, s. 1; 1955, c. 54, s. 25 (1); 1956, c. 70, s. 1; 1958, c. 84, s. 1 (1, 2).

Operating  
licence  
required

**2.—**(1) No person shall operate a public commercial vehicle,

- (a) except under an operating licence; or
- (b) in contravention of the terms and conditions of the operating licence. 1957, c. 96, s. 1.

Lessor of  
vehicles  
operated  
for trans-  
portation  
of goods

(2) Where the owner of a commercial motor vehicle leases such vehicle to another person to be operated on a highway for the transportation of goods, the lessor of such vehicle is deemed to be operating a public commercial vehicle where the lessor engages or pays directly or indirectly the driver of such vehicle. 1960, c. 91, s. 1.

Vehicle  
licence  
required

(3) No person shall operate a public commercial vehicle unless the vehicle is licensed as a public commercial vehicle under this Act. R.S.O. 1950, c. 304, s. 2 (2).

Advertising  
by  
unlicensed  
persons

(4) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of goods by means of a vehicle operated on a highway by, for or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for or on behalf of whom the vehicle is operated is licensed under this Act to perform the transportation that is the object of such advertising or undertaking. R.S.O. 1950, c. 304, s. 2 (3); 1958, c. 84, s. 2.

Agents

**3.—**(1) No person other than a duly authorized agent of an owner of a public commercial vehicle shall carry on the business of an agent for the transportation of goods upon the highways.

Agency  
authority

(2) A duly authorized agent of an owner of a public commercial vehicle shall be appointed in writing and such appointment shall be signed by the owner and shall at all times be kept posted up and displayed in a conspicuous place on the premises at which the agent conducts the agency business. R.S.O. 1950, c. 304, s. 3.

Approval  
of Board

**4.—**(1) No operating licence shall be issued without the



approval of the Board being first obtained as evidenced by the Board's certificate of public necessity and convenience furnished to the Minister and then only in accordance with the certificate. 1953, c. 85, s. 1, *part*; 1956, c. 70, s. 3 (1).

(2) The approval of the Board to a renewal of a licence <sup>Renewal of licence</sup> is not required unless the Minister refers the application for renewal to the Board.

(3) The Minister may refer any application for the transfer <sup>Transfer of licence</sup> of an operating licence to the Board.

(4) The Minister may at any time refer an operating <sup>Alteration of licence</sup> licence to the Board with a recommendation that the terms and conditions of the licence be reviewed. R.S.O. 1950, c. 304, s. 4 (2-4).

(5) On any application or reference to the Board, the <sup>Powers of Board</sup> Board has and may exercise all powers necessary for the purposes of this Act, and may give or refuse such certificate and make such order as it deems just. R.S.O. 1950, c. 304, s. 4 (5); 1956, c. 70, s. 3 (3).

5. The Minister may in his discretion require the directors <sup>Issue or transfer of shares of corporation</sup> of a corporation that is the holder of an operating licence to present to the Board for approval any issue or transfer of shares of its capital stock and where, in the opinion of the Board, a substantial interest is issued or transferred, such issue or transfer shall be deemed to constitute a transfer of all operating licences held by such corporation. 1958, c. 84, s. 3.

6. Operating and vehicle licences shall be issued by the <sup>Issue of licences</sup> Minister and are subject to the regulations and the terms and conditions in the licence. R.S.O. 1950, c. 304, s. 5.

7. An operating licence may confer special or limited <sup>Rights limited by licence</sup> rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the licence. R.S.O. 1950, c. 304, s. 6.

8.—(1) A vehicle licence may fix the tonnage that the <sup>Tonnage</sup> vehicle may carry, and no vehicle shall at any time carry more tonnage than is fixed by the licence.

(2) Every public commercial vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous position a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year. R.S.O. 1950, c. 304, s. 7. <sup>Licence plate to be plainly exposed</sup>

Cancellation  
and  
suspension  
of licences  
R.S.O. 1960,  
c. 172

**9.** The Minister may at any time cancel or suspend any licence by reason of a breach of this Act or *The Highway Traffic Act* or of the regulations hereunder or thereunder, or for any reason set out in the regulations. R.S.O. 1950, c. 304, s. 8.

Transfer of  
licences

**10.** No operating licence shall be transferred except with the written approval of the Minister. R.S.O. 1950, c. 304, s. 9.

Insurance

**11.** Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. R.S.O. 1950, c. 304, s. 10.

Certificate  
of insurance

**12.**—(1) Every insurer who has issued a policy of insurance in accordance with section 11 shall issue a certificate thereof which shall be filed with the Minister.

Effect of  
certificate

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

Notice of  
cancellation  
or expiry of  
insurance

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy for which a certificate has been issued, at least thirty days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy remains in full force and effect. R.S.O. 1950, c. 304, s. 11.

Cancellation  
or expiry  
of bond

**13.** A bond issued in accordance with section 11 shall not be cancelled or expire except after thirty days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. R.S.O. 1950, c. 304, s. 12.

Offences

**14.**—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200.

Disposition  
of fines

(2) Every fine so imposed shall be paid over to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 304, s. 13.

Consent to  
prosecutions

**15.** No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Department designated by the Minister to assist in the enforcement of this Act. R.S.O. 1950, c. 304, s. 14.

**16.** The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

- (a) governing the issue, renewal, transfer, suspension and cancellation of licences and classes of licences;
- (b) prescribing fees and the basis for computing fees, and respecting payment thereof;
- (c) prescribing terms and conditions to which licences shall be subject;
- (d) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons licensed under this Act;
- (e) prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;
- (f) governing the filing of bonds and certificates of insurance;
- (g) respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;
- (h) providing for the examination of public commercial vehicles, their contents and equipment by officers of the Department and members of the Ontario Provincial Police Force;
- (i) prescribing, regulating and limiting the hours of labour of drivers of public commercial vehicles;
- (j) prescribing the qualifications of drivers of public commercial vehicles;
- (k) prescribing equipment to be carried by public commercial vehicles and the condition and location in which the equipment shall be kept;
- (l) prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed, and providing for the examination by officers of the Department of all books, records and documents;
- (m) prescribing the method of handling cash on delivery shipments and the collection and remittance of cash on delivery funds;
- (n) prescribing the form of or conditions in the bill of lading to be used;
- (o) providing for the delegation to an officer of the Department of such of the powers and duties of the Minister as may be deemed necessary;

- (*p*) providing for the temporary exemption from any of the provisions of this Act or the regulations of such public commercial vehicles carrying goods into, out of, or through Ontario or such persons operating such vehicles as he may designate upon such terms, limitations and conditions as he prescribes;
  - (*q*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 304, s. 15; 1953, c. 85, s. 2; 1958, c. 84, s. 4.
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## CHAPTER 320

## The Public Halls Act

## 1. In this Act,

Interpre-  
tation

- (a) "owner" means a person who has in respect of premises an estate for life or a greater estate, legal or equitable, or a leasehold estate; R.S.O. 1950, c. 305, s. 1.
- (b) "public hall" means a building, including a portable building or tent with a seating capacity for over 100 persons, that is offered for use or used as a place of public assembly, but does not include a theatre within the meaning of *The Theatres Act* or a building, except a tent, used solely for religious purposes. R.S.O. 1960, c. 396.
- 1953, c. 86, s. 1.

2. No public hall shall be offered for use or used as a place of public assembly unless the owner thereof holds a licence therefor from the city, town, village or township in which it is located, or where it is located in a city having a population of not less than 100,000, from the board of commissioners of police of the city. 1953, c. 86, s. 2.

3. Any owner who contravenes section 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500 and in default of payment of the fine imposed or in addition to such fine, to imprisonment for a term of not more than six months. R.S.O. 1950, c. 305, s. 3.

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## CHAPTER 321

## The Public Health Act

## 1. In this Act,

Interpre-  
tation

- (a) "communicable disease" means any contagious or infectious disease, and includes smallpox, chickenpox, diphtheria, scarlet fever, typhoid fever, measles, German measles, glanders, cholera, erysipelas, tuberculosis, mumps, anthrax, bubonic plague, rabies, poliomyelitis and cerebro-spinal meningitis, and any other disease declared by the regulations to be a communicable disease;
- (b) "Department" means the Department of Health;
- (c) "Deputy Minister" means the Deputy Minister of Health; R.S.O. 1950, c. 306, s. 1, cls. (a-c).
- (d) "fluoridation system" means a system comprising equipment and materials established for the addition of a chemical compound to release fluoride ions into a municipal water supply; 1957, c. 97, s. 1.
- (e) "food and dairy inspector" means a food and dairy inspector appointed under this Act; R.S.O. 1950, c. 306, s. 1, cl. (f).
- (f) "health unit" means a health unit established under this Act;
- (g) "house" or "household" includes a dwelling house, lodging house, and hotel, and also includes a students' residence, fraternity house or other building in which any person in attendance as a student, pupil or teacher or employed in any capacity in or about a university, college, school or other institution of learning resides or is lodged;
- (h) "householder" includes the proprietor, master, mistress, manager, housekeeper, janitor and caretaker of a house;
- (i) "local board" means the local board of health for a municipality or of a health unit;
- (j) "medical and dental inspection" means medical and dental inspection and dental treatment;

- (*k*) "medical officer of health" means the medical officer of health of a municipality or of a health unit appointed under this Act or, in unorganized territory, a medical officer of health appointed by the Department for a specified area;
- (*l*) "member of a household" means a person residing, boarding or lodging in a house;
- (*m*) "milk" includes whole milk and such products of milk as are supplied, processed, distributed or sold in any form other than butter or cheese;
- (*n*) "Minister" means the Minister of Health;
- (*o*) "municipality" does not include a county;
- (*p*) "occupier" means the person in occupation or having the charge, management or control of any premises, whether on his own account or as an agent;
- (*q*) "owner" means the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person, or who would so receive the rent if such land or premises were let;
- (*r*) "pasteurization" means the process of heating every particle of milk to a temperature of not less than 143°F., of holding it at such temperature for not less than thirty minutes, or such other temperature and time as is set by the Lieutenant Governor in Council, and of cooling it immediately thereafter to 50°F. or lower, and "pasteurized" has a corresponding meaning;
- (*s*) "premises" means any land or any building, public or private, sailing, steam or other vessel, any vehicle, steam, electric or street railway car for the conveyance of passengers or freight, any tent, van or other structure of any kind, any mine, or any stream, lake, drain, ditch or place, open, covered or enclosed, public or private, natural or artificial, and whether maintained under statutory authority or not;
- (*t*) "regulations" means the regulations made under this Act;
- (*u*) "street" includes any highway, any public bridge and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not. R.S.O. 1950, c. 306, s. 1, cls. (*i-x*).



2. Where by this Act powers are conferred or duties imposed upon the Department, such powers may be exercised and duties discharged by the Minister. 1953, c. 87, s. 1.

3.—(1) The Lieutenant Governor in Council may appoint a duly qualified medical practitioner of at least five years standing to be Chief Inspector of Health.

(2) The Chief Inspector of Health may exercise, anywhere in Ontario, any of the powers conferred by this Act on medical officers of health, and he shall act under the direction of the Minister and shall perform such duties as are assigned to him by the Minister or by the Deputy Minister. R.S.O. 1950, c. 306, s. 2.

4. It is the duty of the Department and it has power,

(a) to make investigations and inquiries respecting the causes of disease and mortality in Ontario or in any part thereof;

(b) to advise the officers of the Government in regard to public health generally, and as to drainage, water supply, disposal of garbage and excreta, heating, ventilation and plumbing of premises;

(c) to exercise a careful oversight of vaccine matter and serum produced or offered for sale in Ontario, or manufacture the same if deemed advisable, and as far as possible prevent the sale of the same when found to be impure or inert, and ensure that a supply of proper vaccine matter is obtainable at all times at such vaccine farms and other places as are subject to inspection by the Department;

(d) to determine whether the existing condition of any premises or of any street or public place, or the method of manufacture or business process, or the disposal of sewage, trade or other waste, garbage or excrementitious matter is a nuisance or injurious to health;

(e) to inspect all county jails, prisons, homes for the aged, sanatoria, hospitals, sanatoria, orphanages, homes or places of refuge, charitable institutions and other public or private institutions for the safe-keeping, custody or care of any person confined therein by process of law, or received or cared for therein at his own charges or by public or private charity, and ensure that such institutions are kept in a proper sanitary condition and that this Act and the regulations are complied with;

- (f) to make public distribution of sanitary literature, especially during the prevalence in any part of Ontario of any communicable disease, and pay particular attention to all matters relating to the prevention and spread of communicable diseases in such manner as the Department deems best to control any outbreak;
- (g) to enter into and go upon any premises in the exercise of any power or the performance of any duty under this Act, and make such orders and give such directions with regard to the structural alteration of the premises or with respect to any other matter as the Department deems advisable in the interests of the public health. R.S.O. 1950, c. 306, s. 3.

Investigation as to disease and mortality

**5.**—(1) The Minister may direct an officer of the Department to investigate the causes of any communicable disease or mortality in any part of Ontario, and the person so directed may take evidence on oath or otherwise, as he deems expedient, and, for the purposes of such investigation, possesses all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

R.S.O. 1960, c. 323

Investigation as to unsanitary conditions and nuisances

(2) Where it appears to the Department that any unsanitary condition or nuisance exists in a municipality and that the local board has on a proper representation of the facts neglected or refused to take such measures as may remove such condition or abate such nuisance, the Minister may direct an investigation under subsection 1.

Removal or abatement

(3) If upon such investigation it is found that a remediable unsanitary condition or nuisance exists, the Department may direct its immediate removal or abatement by the person responsible therefor and, if such person neglects or refuses after three days notice by the Department to remove or abate the same, may cause such removal or abatement to be made, and the treasurer of the municipality shall forthwith pay out of any money of the municipality any expenses incurred under any such order.

M.O.H., appointment of

(4) Where it appears to the Department to be in the interests of the public health, the Minister may appoint the medical officer of a Government institution a medical officer of health with duties confined to the institution and to the inmates and staff thereof. R.S.O. 1950, c. 306, s. 4.

Regulations: prevention or mitigation of disease

**6.** The Minister, with the approval of the Lieutenant Governor in Council, may make regulations for,

1. the prevention or mitigation of disease;

2. the frequent and effectual cleansing of streets, yards and premises; cleansing streets and premises
3. the removal of nuisances and unsanitary conditions; removal of nuisances, etc.
4. the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; R.S.O. 1950, c. 306, s. 5, cls. (a-d). cleansing and disinfecting premises
5. regulating, so far as the Legislature has jurisdiction in that behalf, the entry and departure of boats or vessels at the different ports or places in Ontario, and the landing of passengers or cargoes from such boats or vessels or from railway carriages or cars, and the receiving of passengers or cargoes on board the same, for the purpose of preventing the spread of any communicable disease; passenger traffic
6. the safe and speedy interment or disinterment of the dead, the transportation of corpses and the conduct of funerals; burials
7. the supplying of such medical aid, medicine and other articles and accommodations as the Department deems necessary for preventing or mitigating an outbreak of any communicable disease; checking communicable diseases
8. prescribing the terms and conditions upon which insulin may be supplied free of charge to indigent persons under section 56 and the forms to be used in connection therewith, and requiring and providing for the payment by the municipality in which the indigent person resides of a contribution towards the cost thereof in an amount not to exceed 25 per cent of such cost; insulin
9. the inspection of premises by the local board or medical officer of health, or an officer of the Department, and the cleansing, purifying and disinfecting of anything contained therein when required by the local board or officer, at the expense of the owner or occupier, and for detaining for such purpose any steamboat, vessel, railway carriage or car or public conveyance and anything contained therein and any person travelling thereby; inspection for the purpose of disinfection
10. entering and inspecting any premises used for human habitation in any locality in which conditions exist that, in the opinion of the Department, are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building that is, in the ordering alteration or destruction

opinion of the Department, unfit for human habitation;

preventing  
overcrowd-  
ing

11. preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises and the amount of air space to be allowed for each dweller therein;

preventing  
travel by  
persons  
exposed to  
infection

12. preventing the departure of persons from infected localities and for preventing persons or conveyances from passing from one locality to another, and for detaining persons who or conveyances that have been exposed to infection for inspection or disinfection until the danger of infection is past;

sanitary  
inspectors

13. regulating the appointment of sanitary inspectors to be paid by the municipality in which they act for the purpose of enforcing this Act or the regulations, or any by-law in force in the municipality;

surveillance

14. the removal or keeping under surveillance of persons living in infected localities;

taking pos-  
session of  
premises

15. authorizing the taking possession by a municipal corporation, local board or medical officer of health, for any of the purposes of this Act, of any land or unoccupied building;

health and  
summer  
resorts and  
inland  
waters

16. the sanitary precautions to be taken in health resorts, summer resorts and upon boats or other vessels plying upon lakes, rivers, streams and other inland waters, and for preventing the pollution of such waters by the depositing therein of sewage, excreta, vegetable, animal or other matter or filth;

general

17. any other matter that, in the opinion of the Department, the general health of the inhabitants of Ontario or of any locality may require;

manufacture  
of beverages

18. the manufacture of non-intoxicating beverages and distilled and mineral water, and the manufacture of syrups, wines and brewed beers;

inspecting,  
etc., bever-  
age plants  
and  
premises

19. the inspection and licensing of plants and premises for the manufacture of non-intoxicating beverages and distilled and mineral water, and the manufacture of syrup, wines and brewed beers;

duties of  
officers

20. prescribing the duties and powers of officers designated under section 12;

medical and  
dental  
inspection in  
schools

21. the medical and dental inspection and dental treatment of pupils in public, separate, continuation, high and vocational schools, where such inspection and

treatment is undertaken by local boards under this Act, and for the apportionment and payment of all moneys appropriated by the Legislature for that purpose; R.S.O. 1950, c. 306, s. 5, cls. (g-w).

22. regulating the pasteurization of milk and prescribing <sup>pasteurization of</sup> the form and the conditions under which a certificate <sup>milk</sup> of approval may be issued to any plant in which milk is pasteurized or in which milk products are prepared;
23. providing for courses of instruction and prescribing <sup>courses for</sup> qualifications for medical officers of health, sanitary <sup>officers, etc.</sup> inspectors, food and dairy inspectors and public health nurses; R.S.O. 1950, c. 306, s. 5, cls. (ze, zf).
24. prescribing the duties of medical officers of health, <sup>duties of</sup> sanitary inspectors, food and dairy inspectors and <sup>officers, nurses, etc.</sup> public health nurses, in relation to public health matters not specifically provided for by this Act;
25. regulating the construction, manufacture, alteration, <sup>upholstered or stuffed</sup> renovation, repairing, renewal, covering and recover- <sup>articles</sup> ing, inspection and sale of upholstered or stuffed articles; 1957, c. 97, s. 2 (2), *part*.
26. defining "sale" for the purposes of this Act and the <sup>idem</sup> regulations, classifying and defining upholstered or stuffed articles and the materials to be used therein, and requiring and prescribing the treating, processing, sterilizing and disinfecting of upholstered or stuffed articles and the materials used therein, and prohibiting the use in upholstered or stuffed articles of materials designated by the regulations; 1957, c. 97, s. 2 (2), *part*; 1959, c. 79, s. 1 (1).
27. requiring the labelling of upholstered or stuffed <sup>idem</sup> articles constructed, manufactured, altered, renovated, repaired, renewed, covered, recovered, sold or offered for sale and prescribing the form of the labels to be affixed thereon; 1957, c. 97, s. 2 (2), *part*; 1959, c. 79, s. 1 (2).
28. requiring every label affixed to upholstered or stuffed <sup>idem</sup> articles to be stamped with a stamp supplied by the Department and fixing the fees to be paid therefor;
29. exempting designated persons or classes of articles <sup>idem</sup> from the regulations respecting upholstered or stuffed articles; 1957, c. 97, s. 2 (2), *part*.
30. defining, regulating and licensing summer camps, <sup>camps and resorts</sup> summer resorts and agricultural camps but not includ-

ing premises commonly known as tourist camps, boarding houses or lodging houses;

diagnostic  
and public  
health  
laboratories

31. licensing, regulating and controlling diagnostic and public health laboratories;

qualifica-  
tions of  
laboratory  
personnel

32. prescribing qualifications for persons operating or engaged in diagnostic or public health laboratories;

location,  
construction,  
etc., of  
dwellings

33. prescribing standards for the location, construction, alteration, repair and equipment of premises to be used as dwellings;

cold storage  
plants

34. prescribing standards for the construction, operation and maintenance of premises used for public cold storage of food for human consumption and requiring licences for such premises and fixing an annual licence fee of not more than \$5;

swimming  
pools

35. prescribing standards for the location, construction, alteration, repair, operation and maintenance of swimming pools; R.S.O. 1950, c. 306, s. 5, cls. (*zh-zn*).

maternal  
and child  
health

36. prescribing the manner, method, times and conditions for the establishing and supplying of facilities and services mentioned in clauses *a* and *b* of subsection 4 of section 81, and for the payment of or making contributions toward the cost thereof;

expectant  
mothers and  
infants  
R.S.O. 1960,  
c. 322

37. prescribing the manner, method, times and conditions of payment of the grants to hospitals approved under *The Public Hospitals Act* for the establishment and operation of accommodation and facilities for the care and treatment of expectant mothers and infants; 1955, c. 65, s. 1.

food  
standards

38. prescribing standards for the construction, operation and maintenance of premises where food or drink for human consumption is manufactured, processed or handled;

food  
handling

39. regulating or restricting the manufacturing, processing, preparing, selling or offering for sale of any food or drink for human consumption; R.S.O. 1950, c. 306, s. 5, cls. (*zp, zq*).

grants for  
maintenance  
of isolation  
hospitals

40. providing for the payment of grants for the maintenance of isolation hospitals, the methods of determining the amounts of such grants and the manner and times of payment of such grants and for withholding such grants and making deductions therefrom; 1951, c. 70, s. 1.

41. designating institutions to which the Minister may make contributions toward the cost of the maintenance, treatment and special treatment of persons in such institutions who are suffering from poliomyelitis or from impairment of muscular function as a result of having been infected with poliomyelitis and prescribing the methods of determining the amounts of contributions and the manner and times of payment thereof; 1954, c. 76, s. 1. contributions for poliomyelitis treatment
42. regulating, restricting or prohibiting the installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation used otherwise than in commerce or industry, or any class of them; 1959, c. 79, s. 1 (3). ionizing radiation
43. governing, regulating and restricting the storage, collection and disposal of refuse, and the location and operation of refuse disposal areas. 1960, c. 92, s. 1. disposal of refuse

7.—(1) Any regulation made under section 6 may be limited as to time or place or to both. Regulations may be limited

(2) Regulations heretofore made shall be deemed to be general in their application unless such application is inconsistent with the intent and purpose of such regulations. 1952, c. 84, s. 1. Regulations heretofore made

8. A regulation made by the Minister with the approval of the Lieutenant Governor in Council supersedes any municipal by-law, including the by-law in Schedule B, dealing with the same subject-matter, and any such by-law shall be deemed to be revoked in so far as it is inconsistent with any such regulation. 1953, c. 87, s. 3. By-laws superseded by regulations

9. The Deputy Minister, the district officers of health, the provincial sanitary inspectors in unorganized areas, and any other officer of the Department specially authorized for the purpose, possess all the powers conferred upon a medical officer of health and the officers of a local board by this Act or by the regulations. R.S.O. 1950, c. 306, s. 8. Powers of officers of the Department

10.—(1) The Lieutenant Governor in Council may divide the Province for the purposes of this section into not more than ten health districts and may appoint a legally qualified medical practitioner to be known as the district officer of health for each such district. Health districts and district officers

(2) Every district officer of health shall be paid such salary as is fixed by the Lieutenant Governor in Council and his actual and necessary travelling and other expenses incurred Salaries, etc., of district officers of health

in the discharge of his duties, and such salary and expenses are payable out of such sums as are appropriated by the Legislature for that purpose.

District  
officers of  
health,  
duties of

(3) Every district officer of health,

- (a) is within his district the official representative of the Department and, subject to the approval of the Minister or the Deputy Minister, has general control of statutory organization for public health;
- (b) for the promotion of public health and for the protection of the inhabitants from communicable disease, has authority, subject to the approval of the Minister, to enforce this Act and the regulations and is responsible through the local medical officer of health for the enforcement of this Act and the regulations; and
- (c) also has, for the further effective carrying out of this Act and the regulations, all the powers and rights and authority to perform all the functions and duties of the local medical officer of health or the sanitary inspector under this Act.

May act in  
other  
districts

(4) Whenever required so to do by the Department, a district officer of health has the same authority and shall perform the same duties in any part of Ontario as he might do in the district for which he is appointed.

To act  
under  
Depart-  
ment

(5) Every district officer of health shall act under the supervision and control of the Department, and shall report to it at least monthly, and at such other times as are required, and shall in such report give such information as is required by the Department or by the regulations.

Enforce-  
ment of  
sanitary  
by-laws

(6) The Department, every district officer of health and inspector, and every medical officer of health and sanitary inspector have authority to enforce the by-law set out in Schedule B, or any amendment thereof approved by the Department, and any by-law respecting the milk supply of, and any other by-law respecting sanitary matters in, a municipality, and for such purpose may institute proceedings for the prosecution of offenders against any of the said by-laws.

Authority  
to call  
special  
meeting

(7) A district officer of health may summon a special meeting of a local board for public health purposes.

Powers of  
district  
officer of  
health in  
unorganized  
territory

(8) In territory without municipal organization, a district officer of health has the same rights and powers and shall perform the same duties as are conferred and imposed upon the local municipal councils, local boards and local medical officers of health in the administration and enforcement of this Act, *The Vaccination Act* and *The Venereal Diseases Prevention Act*. R.S.O. 1950, c. 306, s. 9.



**11.** The Minister may establish and maintain clinical <sup>Clinical laboratory centres</sup> laboratory centres at such places and with such buildings, appliances and equipment as he deems proper and may give directions from time to time as to the operation of such laboratory centres, the nature and extent of the work to be done and the supplies necessary therefor, and the cost of establishing, furnishing and maintaining any clinical laboratory under this section shall be borne and paid out of such moneys as are appropriated by the Legislature for that purpose. R.S.O. 1950, c. 306, s. 10.

**12.** The Minister may designate which officers of the Department shall inspect and supervise the work of school <sup>Designation of officers to supervise, etc., medical and dental work in schools</sup> medical officers, dental officers and nurses appointed by boards of education, school boards or local boards of health for the purpose of medical and dental inspection in public, separate, continuation, high and vocational schools throughout Ontario, and such officers shall perform all duties required of them by the Department and by this Act, *The Public Schools Act*, *The Separate Schools Act*, *The Department of Education Act*, or any <sup>R.S.O. 1960, cc. 330, 368, 94</sup> other Act or any regulations made thereunder with respect to such medical and dental inspection. R.S.O. 1950, c. 306, s. 11.

#### LOCAL BOARDS OF HEALTH

**13.—(1)** There shall be a local board of health for every <sup>Local boards:</sup> municipality in Ontario, except where a health unit is established under this Act.

(2) In a city and in every town having a population of <sup>in cities and in towns of 4,000 or over</sup> 4,000 or over according to the enumeration of the assessors for the last preceding year, the local board shall consist of the mayor, the medical officer of health and three resident ratepayers to be appointed annually by the council at its first meeting in every year. R.S.O. 1950, c. 306, s. 12 (1, 2).

(3) In a city having a population of 100,000 or over according to the enumeration of the assessors for the last preceding <sup>in cities over 100,000</sup> year, the council may by by-law provide that the local board shall consist of the mayor, the medical officer of health and,

- (a) five resident ratepayers, at least two of whom are not members of the council; or
- (b) seven resident ratepayers, at least three of whom are not members of the council.

(4) The resident ratepayers referred to in clauses *a* and *b* <sup>appointment of resident ratepayers</sup> of subsection 3 shall be appointed annually by the council at its first meeting in every year. 1952, c. 84, s. 2.

in towns of  
less than  
4,000,  
villages  
and town-  
ships, etc.

(5) In a town having a population of less than 4,000 according to the enumeration of the assessors for the last preceding year and in every village, township and improvement district, the local board shall consist of the head of the municipality, the medical officer of health and one resident ratepayer appointed annually by the council at its first meeting in every year. 1953, c. 87, s. 4, *part*.

in townships  
of 4,000  
or over

(6) In a township having a population of 4,000 or over according to the enumeration of the assessors for the last preceding year, the council may by by-law provide for the addition of four resident ratepayers to the local board to be appointed annually by the council at its first meeting in every year. 1953, c. 87, s. 4, *part*; 1956, c. 71, s. 3.

appoint-  
ment of  
member of  
council

(7) One or more members of the council may be appointed to be members of the local board.

secretary

(8) The local board shall have a secretary, and, unless otherwise provided by the council, the clerk shall be the secretary.

where  
health unit  
established

(9) Where a health unit is established, the local board thereof shall be constituted and appointed as provided by the regulations, and such local board shall take the place of the local board or boards which but for the establishment of the health unit would exist in the municipality or municipalities forming the health unit. R.S.O. 1950, c. 306, s. 12 (5-7).

Corporate  
name

**14.** Every local board is a corporation by the name of "The Local Board of Health of the City (*or as the case may be*) of....." (*inserting the name of the municipality*). R.S.O. 1950, c. 306, s. 13.

Meetings

**15.**—(1) A local board shall hold at least four meetings in each year at a time and place to be fixed by resolution of the board, and such other meetings as are prescribed by the regulations or required by the board.

Chairman

(2) At the first meeting of a local board in every year, which shall be held not later than the 1st day of February, the board shall elect one of its members to be chairman. R.S.O. 1950, c. 306, s. 14.

Special  
meetings

**16.** Any member of a local board may call a special meeting thereof at any time by giving notice in writing to the other members of the board and to the secretary. R.S.O. 1950, c. 306, s. 15.

Clerk to  
report mem-  
bership of  
board to  
Department

**17.** The clerk of the municipality shall report to the Department the names and addresses of the members of the local board in each year on or before the 1st day of February,

and he shall so report any change occurring during the year in the membership of the board. R.S.O. 1950, c. 306, s. 16.

**18.** Whenever a vacancy occurs in a local board of a city or town by the death, resignation or removal of an appointed member, the council, at its first meeting after the vacancy occurs, shall appoint a resident ratepayer to fill the vacancy and, in default of such appointment, the Department may appoint a resident ratepayer of the municipality to fill the vacancy. R.S.O. 1950, c. 306, s. 17.

**19.** A majority of the members of a local board is a quorum. R.S.O. 1950, c. 306, s. 18.

**20.** The council of a township may by by-law provide for the payment to each member of the local board and to the secretary of a sum not exceeding \$4 for every attendance at meetings of the board and his necessary travelling expenses in going to and returning from such meetings. R.S.O. 1950, c. 306, s. 19.

**21.—(1)** The treasurer of the municipality shall forthwith upon demand pay the amount of any account for services performed under the direction of the board and materials and supplies furnished, or for any expenditure incurred by the board or by the medical officer of health or sanitary inspector in carrying out this Act or the regulations, after the board has by resolution approved of the account and a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer.

(2) Subsection 1 applies to payment of any expenditure incurred by a local board in providing medical and dental inspection of pupils in any school pursuant to section 96.

(3) The amounts of any payments made by the treasurer for the purposes mentioned in subsection 2 shall be levied and collected by a special rate on the rateable property of the supporters of the school or schools for whose pupils medical and dental inspection is provided by the local board. R.S.O. 1950, c. 306, s. 20.

**22.—(1)** The proceedings of every local board shall be recorded by the secretary in a book to be kept for that purpose.

(2) The secretary shall annually, on or before the 15th day of February, prepare a report of the work done by the board during the year and of the sanitary condition of the municipality.

Report to  
be trans-  
mitted to  
Deputy  
Minister

(3) The report as adopted by the local board shall include the annual report of the medical officer of health and shall be transmitted to the Deputy Minister. R.S.O. 1950, c. 306, s. 21.

Weekly  
report to  
Depart-  
ment

**23.** The secretary of every local board shall report weekly to the Department the number of cases of and deaths from communicable diseases, and the number of deaths from all other causes occurring in the municipality during the preceding week, upon a form to be supplied by the Department. R.S.O. 1950, c. 306, s. 22.

Enforcing  
authority of  
local board

**24.—(1)** Whenever a local board has authority to direct that any matter or thing be done by a person, the board may also, in default of its being done by the person, direct that such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof by action in any court of competent jurisdiction, or the board may direct that the same be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes.

Installation  
of sanitary  
conveniences  
and water  
service by  
municipality

(2) Where a local board in a municipality in which a sewerage system has been established recommends that sanitary conveniences or suitable connections with a water service should be installed in any building and is of the opinion that the owner of the premises is unable or unwilling to pay the expense of the same at once, the municipality may, with the approval of the Minister, install suitable sanitary conveniences and construct private drain connections required to connect such sanitary conveniences with the common sewers of the municipality, or may install a water service pipe with the necessary connections to give a proper supply of water to the premises, at the expense of the owner, and the Department may direct that the cost, including interest at a rate not exceeding 6 per cent on the deferred payments, be paid by the owner in equal successive annual payments extending over a period not exceeding five years, and that such annual payments be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes.

Registration  
of certificate  
of charges  
for installing  
sanitary  
conveni-  
ences

(3) A certificate from the clerk of the municipality setting forth the cost of the conveniences and a description of the lands upon which the same were installed shall be registered in the proper registry or land titles office against the lands on proper proof by affidavit of the signature of the clerk, and, upon payment in full of the cost of the conveniences, a like certificate from the clerk shall be registered and thereupon the lands are freed from all liability with reference thereto. R.S.O. 1950, c. 306, s. 23.

**25.**—(1) Where an action is brought against a local board or any member, officer or employee of a local board by a person who has suffered damage by reason of any act or default on the part of the local board or any member, officer or employee thereof, the corporation of the municipality may assume the liability or the defence of the action and may pay any damages or costs for which the board or the member, officer or employee is liable in respect of such act or default. Municipality may assume responsibility for board or employees

(2) In this section, "employee" does not include a contractor with the local board. R.S.O. 1950, c. 306, s. 24. but not for contractors

**26.** It is the duty of a local board to superintend and ensure the carrying out of this Act and the regulations and any by-law of the municipality pertaining to public health, and to execute, do and provide all such acts, matters and things as are necessary for that purpose. R.S.O. 1950, c. 306, s. 25. Duty of local board as to carrying out Act and regulations

**27.** Where information is given in writing to the local board by a resident householder of the existence of a nuisance or unsanitary condition in the municipality, the local board shall forthwith cause the complaint to be investigated and all necessary steps to be taken as provided by this Act or by the regulations to abate or remedy the same. R.S.O. 1950, c. 306, s. 26. Complaints as to nuisances

**28.**—(1) Where a medical officer of health is of opinion that the disinfecting of a house or part thereof, or of any articles therein likely to retain infection, would tend to prevent or check any communicable disease, he shall, through the sanitary inspector or otherwise, at the cost and charge of the municipality, disinfect such house or part thereof and the articles therein contained. Cleansing and disinfecting houses, etc

(2) The disinfecting, renovating and cleansing of houses and premises shall be carried on in accordance with the regulations. R.S.O. 1950, c. 306, s. 27. Idem

**29.** A local board may provide, maintain or hire an ambulance or carriage for the conveyance of persons suffering from disease or accident and may pay the expense of conveying therein any person so suffering to a hospital or other place. R.S.O. 1950, c. 306, s. 28. Ambulance

**30.** A local board may provide all necessary apparatus and attendance for the disinfection or destruction of bedding, clothing or other articles that have become infected, and may cause such articles to be disinfected free of charge or may make a reasonable charge for disinfecting them. R.S.O. 1950, c. 306, s. 29. Disinfecting apparatus

Destruction  
of infected  
bedding,  
etc.

**31.** A local board may direct the destruction of any furniture, bedding, clothing or other articles that have been exposed to infection, and may give compensation therefor. R.S.O. 1950, c. 306, s. 30.

Appeal to  
county judge  
from order  
of board

**32.** Where the order of a local board or medical officer of health involves an expenditure of more than \$1,000, the person against whom the order is made or any person chargeable with such expenditure or any part thereof may, within four days after being served with a copy of the order, appeal therefrom to the judge of the county or district court who has power to vary or rescind the order, and any order so varied may be enforced by the Department in the same manner as an order originally made by the board or a medical officer of health. R.S.O. 1950, c. 306, s. 31.

Powers of  
Minister on  
default of  
local  
authorities

**33.—(1)** Where a local board has not been established as required by this Act, or where a local board or any officer thereof has, in the opinion of the Minister, refused or neglected to act with sufficient promptness or efficiency in carrying out this Act or any order or regulation of the Department, or to take such efficient measures as might remove any unsanitary condition or abate any nuisance, the Minister may direct an officer of the Department to carry out such measures as are authorized by this Act or by any order or regulation made thereunder.

Liability  
for pay-  
ments of  
expenses

**(2)** The expenses so incurred shall be certified by the Minister and are a debt due by the corporation of the municipality and, upon presentation of such certificate, the treasurer of the municipality shall pay the same.

Recovery of  
expenses of  
carrying out  
orders of  
Department

**(3)** The corporation of the municipality whose treasurer pays the expenses so incurred as provided by subsection 2 may recover the amount so paid by action in any court of competent jurisdiction against the person certified in writing by the Minister to have been in default, or the council of the municipality may direct the amount of the expenses to be added by the clerk of the municipality to the collector's roll and collected from the person so certified to be in default in like manner as municipal taxes. R.S.O. 1950, c. 306, s. 32.

#### MEDICAL OFFICERS OF HEALTH

Medical  
officers of  
health and  
sanitary  
inspectors,  
appointment

**34.—(1)** The council of every municipality shall appoint a legally qualified medical practitioner to be the medical officer of health for the municipality, and shall also appoint such number of sanitary inspectors for the municipality as are deemed necessary by the local board, and as are prescribed by the regulations, and every such appointment is subject to the approval of the Minister.

(2) Where the council refuses or neglects to make any of such appointments or to fill any vacancy, the Department shall, by registered letter addressed to the clerk of the municipality, require the council to make the appointment or to fill the vacancy forthwith and, if the council continues in default for five days after the receipt of the letter, the Lieutenant Governor in Council, upon the recommendation of the Minister, may make the appointment or fill the vacancy. R.S.O. 1950, c. 306, s. 33 (1, 2).

(3) The council of a municipality having a population of 100,000 or over may appoint an assistant medical officer of health, or more than one assistant medical officer of health, who shall act under the direction of the medical officer of health and while so acting he has all the powers and shall perform the same duties as the medical officer of health. R.S.O. 1950, c. 306, s. 33 (3); 1957, c. 97, s. 3.

(4) Upon the death of a medical officer of health appointed by the council of a city, the council of that city may appoint, with the approval of the Minister, an acting medical officer of health, who has all the powers of and shall perform the same duties as a medical officer of health.

(5) An acting medical officer of health appointed under subsection 4 ceases to hold office three months after the death of the medical officer of health or upon the appointment of a medical officer of health, whichever first occurs. 1952, c. 84, s. 3.

(6) The council of a township, with the approval of the Department, may appoint for any stipulated time more than one medical officer of health for the township and may limit the territory within which each of such officers shall act, and every such medical officer of health, within the territory for which he is appointed, has and shall perform the powers and duties of a medical officer of health as set out in this Act or in any by-law passed thereunder and in force in the municipality.

(7) The council of a municipality or a local board may appoint one or more food and dairy inspectors, one or more public health nurses, and one or more duly qualified physicians and engage such other services as are, in the opinion of the council or local board, required for carrying out this or any other Act administered by the Department or the regulations made thereunder for the prevention or treatment of disease.

(8) The council of a town, township or village, or the local board thereof, may unite with the council or councils or boards of health of one or more neighbouring municipalities for the purpose of appointing, employing and paying one or more public health nurses for the promotion of the public health and

the prevention or treatment of disease, and such appointments are eligible for grants in respect of the same as are provided by the regulations.

Public  
health  
nurses

(9) Any person who is appointed under this Act as a public health nurse is subject to the direction and control of the medical officer of health for the municipality for which such nurse is appointed. R.S.O. 1950, c. 306, s. 33 (4-7).

Health  
units,  
establish-  
ment

**35.**—(1) The council of a county may by by-law establish and declare the county to be a health unit.

Idem

(2) The councils of two or more counties, or such number and type of municipalities in the same county or in different counties or territorial districts as are designated by the regulations, may enter into an agreement in writing for the formation of a health unit. 1960, c. 92, s. 2 (1).

In a county

(3) Where a county, either alone or with another county or with a municipality separated from the county, is a health unit, the local municipalities in the county and not separated therefrom all form part of the health unit. R.S.O. 1950, c. 306, s. 34 (3).

In territorial  
district

(4) A health unit may include any area in a territorial district that is designated by the Lieutenant Governor in Council. 1960, c. 92, s. 2 (2).

Powers and  
duties

(5) Where a medical officer of health or an acting medical officer of health is appointed for a health unit, the provisions of this Act with respect to the appointment of municipal officers of health for the territory included in the health unit do not apply and the powers and duties of a medical officer of health in any such municipality shall thenceforth be exercised and performed by the medical officer of health or the acting medical officer of health for the health unit. R.S.O. 1950, c. 306, s. 34 (5); 1952, c. 84, s. 4 (1).

Regulations

(6) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations, which may be general or particular in their application,

- (a) respecting the establishment of a health unit;
- (b) providing for the constitution of a board of health in any health unit, fixing the number of members and defining the powers of the board;
- (c) prescribing the powers, qualifications, salary and duties of a medical officer of health, school medical officers, dental officers, nurses, sanitary inspectors and other technical health workers in a health unit;



(d) respecting the appointment and the tenure of office of the medical officer of health, acting medical officer of health, school medical officers, dental officers, nurses, sanitary inspectors and other technical health workers in a health unit;

(e) apportioning any expense incurred in carrying out this section and the regulations among the municipalities and school sections concerned. R.S.O. 1950, c. 306, s. 34 (6); 1952, c. 84, s. 4 (2).

(7) The expenses incurred in carrying out this Act and the regulations made thereunder with respect to a health unit shall be borne and paid in such proportion as is agreed upon or, in default of agreement, in such proportion as is fixed by the Minister, or in such manner as is prescribed by the regulations. R.S.O. 1950, c. 306, s. 34 (7). Expenses, how borne and paid

(8) Notwithstanding any other Act, where a health unit has been established or is established, the municipalities making up the unit shall be deemed to have had and to have all such powers as may be necessary to carry out the by-law or agreement providing therefor and, without limiting the generality of the foregoing, any such municipality may incur continuing obligations and make provision for the discharge thereof and may contribute money to and expend money on carrying out the provisions of this Act and the regulations with respect to health units. 1960, c. 92, s. 2 (3). Municipal action confirmed

(9) Subject to the regulations, where a health unit is established under this Act, the Minister may grant such assistance for the establishment and maintenance of the health unit as he deems proper and any such grant is payable out of the moneys appropriated by the Legislature for that purpose. R.S.O. 1950, c. 306, s. 34 (8). Provincial assistance

**36.** Every sanitary inspector appointed by the council shall hold office during the pleasure of the council, and, if appointed by the Lieutenant Governor in Council, shall hold office until the 1st day of February in the year following that of his appointment. R.S.O. 1950, c. 306, s. 35. Tenure of office

**37.—**(1) Every medical officer of health appointed by the council shall hold office during good behaviour and his residence in the municipality, and, if appointed by the Lieutenant Governor in Council, shall hold office until the 1st day of February in the year following that of his appointment, and no medical officer of health shall be removed from office except on a two-thirds vote of the whole council and with the consent and approval of the Minister, who may require cause to be shown for the dismissal. Dismissal

Age of  
retirement  
of M.O.H.

(2) Every medical officer of health shall cease to hold office upon attaining the age of seventy years, but the municipal council, with the approval of the Minister, may continue a medical officer of health in office from year to year until he has attained the age of seventy-five years.

Appointment  
out of  
municipality

(3) Upon evidence satisfactory to the Minister that there is no person residing in a municipality qualified to be medical officer, the Minister may permit the council to appoint as medical officer of the municipality some person residing out of the municipality.

Dismissal  
of M.O.H.  
for neglect  
of duty

(4) A medical officer of health who refuses or neglects to carry out this Act or the regulations, or any special order of the Department, or any by-law of the municipality relating to sanitary matters, may be dismissed from office by the Department or by the municipal corporation on the recommendation of the Department.

Annual  
inspection  
of schools  
by M.O.H.

(5) It is the duty of the medical officer of health to make a sanitary inspection of all schools in his municipality annually and to make a report to the Department regarding them, using forms supplied by the Department for that purpose. R.S.O. 1950, c. 306, s. 36.

M.O.H. to be  
executive  
officer of  
board

**38.** The medical officer of health is the executive officer of the local board and, with the local board, is responsible for the carrying out of this Act and the regulations and of the public health or sanitary by-laws of the municipality. R.S.O. 1950, c. 306, s. 37.

Action  
against  
M.O.H.  
prohibited

**39.** No action, prosecution or other proceeding shall be brought or be instituted against a medical officer of health for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, without the consent of the Minister. R.S.O. 1950, c. 306, s. 38.

Salaries of  
medical  
officers of  
health

**40.** Every medical officer of health, whether appointed by the council or by the Lieutenant Governor in Council, shall be paid by the municipal corporation a reasonable salary to be fixed by by-law, and such salary shall be his total remuneration for his services as medical officer of health. R.S.O. 1950, c. 306, s. 39.

Payment of  
sanitary  
inspectors.

**41.** Sanitary inspectors shall be paid such annual sum as is determined by the council of the municipality. R.S.O. 1950, c. 306, s. 40.

**42.**—(1) Where a vacancy occurs in the office of medical officer of health, the council shall forthwith nominate another medical officer of health in his stead who shall be approved by the Minister as hereinbefore provided. Vacancy in office of M.O.H.

(2) When the medical officer of health is ill or absent from the municipality for a protracted period, the council shall appoint a legally qualified medical practitioner to be acting medical officer of health during the illness or absence, and such acting medical officer of health, during the illness or absence of the medical officer of health, has all the powers and shall perform all the duties of the medical officer of health, and such appointment is subject to the approval of the Department. R.S.O. 1950, c. 306, s. 41. Temporary absence of M.O.H.

**43.**—(1) There shall be an annual conference of all the medical officers of health and it is the duty of every medical officer of health to attend the conference. Annual conference

(2) The expenses of the attendance of each medical officer of health shall be borne by the municipality and are payable in addition to his salary on the certificate of the Deputy Minister. Expenses of attendance

(3) The conference shall be held at such time and place as is determined by the Department. R.S.O. 1950, c. 306, s. 42. Time and place of holding

#### ISOLATION HOSPITALS

**44.**—(1) Any municipality may establish, erect and maintain one or more isolation hospitals for the reception and care of persons suffering from any communicable disease. Establishment

(2) Two or more adjacent municipalities may join in establishing, erecting and maintaining such a hospital. Idem

(3) A municipality may borrow money by the issue of debentures for the purposes of this section and it is not necessary to obtain the assent of the electors to any by-law for raising money for the purposes of this section. Debentures

(4) Debentures issued under this section shall be payable within twenty years from the date of the issue thereof. When payable

(5) Any such hospital may be established in a municipality or in one of the municipalities providing for the same or in an adjoining municipality. R.S.O. 1950, c. 306, s. 43 (1-5). Where to be established

(6) The powers conferred by this section are subject to sections 45 to 50. R.S.O. 1950, c. 306, s. 43 (6), *amended*. Subject to sections 45 to 50

Permission  
for estab-  
lishment of  
isolation  
hospitals  
and con-  
sumption  
hospitals  
R.S.O. 1960,  
c. 359

**45.** No such isolation hospital and, except as provided by *The Sanatoria for Consumptives Act*, no sanatorium, institution or place for the reception, care or treatment of persons suffering from consumption or tuberculosis shall be established or maintained or kept within the limits of any municipality without permission to be given in the manner hereinafter provided. R.S.O. 1950, c. 306, s. 44.

Application  
to local  
board

**46.—(1)** Every municipal corporation and every person desiring to establish, maintain or keep any such isolation hospital, sanatorium, institution or place in a municipality shall make application in writing to the local board of the municipality for permission to do so.

Notice of  
meeting

(2) The local board shall give notice of the application and of the meeting at which the application will be considered by advertisement once a week for two successive weeks in a newspaper published in the municipality or, if there is no such newspaper, in a newspaper published in an adjoining municipality.

Considera-  
tion of appli-  
cation

(3) The local board shall take such application into consideration at its next general meeting after the last publication of such notice or at a special meeting to be called for the purpose within one month after that date.

Hearing and  
decision

(4) The local board shall hear the applicant for such permission in person or by counsel, and shall hear any person opposed to the granting of such permission, and shall within one month thereafter determine by resolution of the board whether or not the application will be granted.

Refusal of  
permission  
and appeal

(5) If the local board determines not to grant permission, notice in writing of its decision shall forthwith be given to the applicant by registered letter, and the applicant may appeal from such decision to a board of appeal to be composed of the head of the municipality, the sheriff of the county or district in which the municipality is situate and the Deputy Minister.

Notice of  
appeal

(6) The appeal shall be by notice in writing addressed to the Deputy Minister and sent by registered mail to him within seven days after the receipt of notice of the decision of the local board.

Notice of  
hearing of  
appeal

(7) The Deputy Minister shall appoint a time and place for the consideration of the appeal, and at least seven days notice of the time and place of hearing the appeal shall be given by registered letter addressed to the secretary of the local board and to the applicant, and by advertisement in a newspaper published in the municipality in which it is sought to establish such hospital, sanatorium, institution or place of reception, or, if there is no such newspaper, in a newspaper

published in the county or district town of the county or district in which such municipality is situate.

(8) The board of appeal shall hold a sitting at such time and place and shall hear what is alleged for and against such appeal on behalf of the applicant and the local board or any ratepayer of the municipality who objects to the granting of such permission. Hearing of appeal

(9) The board of appeal may adjourn the proceedings for the purpose of visiting any building or proposed site and determining upon its suitability or procuring such further information as the board deems necessary. View

(10) The decision of the board of appeal or a majority of its members shall be given in writing and is final. Decision of board of appeal

(11) Each of the members of the board of appeal is entitled to a fee of \$10 per day for each day during which he is necessarily engaged in connection with the appeal and reasonable and necessary expenses, and the same and any other costs and expenses incurred in hearing the appeal are payable by the appellant upon the written order of the Minister to the persons entitled thereto. Fees of board of appeal

(12) Nothing in this section or in section 45 applies to any public general hospital in which persons suffering from other diseases as well as persons suffering from consumption or tuberculosis are received and treated. R.S.O. 1950, c. 306, s. 45. Non-application of sections

**47.** Every person who erects, establishes or maintains any such isolation hospital, sanatorium, institution or place, or who takes part in the superintendence or management thereof, until permission has been given as provided by section 46, is guilty of an offence and on summary conviction is liable to a fine of not more than \$25 for every day on which the offence is continued. R.S.O. 1950, c. 306, s. 46. Offence

**48.—**(1) No isolation hospital shall be established until the plans and the proposed equipment thereof have been submitted to and approved by the Department. Plans to be approved by Department

(2) Every municipality establishing an isolation hospital shall from time to time make such alterations therein and such changes or improvement in the equipment thereof as are directed by the Department. R.S.O. 1950, c. 306, s. 47. Alterations, etc.

**49.** The Minister may, out of the moneys that are appropriated by the Legislature for the purpose and subject to the regulations, pay grants to municipalities toward the cost of Maintenance grants for isolation hospitals

maintenance of the isolation hospitals referred to in section 44. 1951, c. 70, s. 2.

Control of  
isolation  
hospital

**50.**—(1) Subject to the regulations, the local board of the municipality that has established an isolation hospital has the management and control of it and of the conduct of the physicians, nurses, attendants and patients.

Idem

(2) Notwithstanding subsection 1, an agreement may be entered into between the local board of the municipality that has established an isolation hospital, the council of the municipality and the board of trustees of a public hospital, providing for the management and control of the isolation hospital and of the conduct of the physicians, nurses, attendants and patients by the board of trustees of the public hospital. R.S.O. 1950, c. 306, s. 48.

#### EMERGENCY HOSPITALS

Temporary  
emergency  
hospitals

**51.** Where a communicable disease to which this section is made applicable by the regulations becomes prevalent in a municipality and the municipality has not already provided proper hospital accommodation for such cases, the local board shall immediately provide, at the cost of the municipality, such a temporary hospital, hospital tent or other place or places of reception for the sick and infected as may be deemed best for their accommodation and the safety of the inhabitants, and for that purpose may,

- (a) erect such hospital, hospital tent or place of reception;
- (b) contract for the use of any existing hospital, hospital tent or place of reception; or
- (c) enter into an agreement with any person having the management of any such hospital, subject to the approval of the medical officer of health of the local municipality in which the hospital is situate, for the reception and care of persons suffering from the communicable disease, and for the payment of such remuneration therefor as is agreed upon. R.S.O. 1950, c. 306, s. 49.

#### ACQUIRING LAND

Occupying  
land in case  
of emergency

**52.**—(1) Where an outbreak of any of the diseases to which section 51 applies occurs or is apprehended, the local board may enter upon and take and use for the purposes mentioned in that section any land or unoccupied building

without prior agreement with its owner and without his consent, and may retain it for such period as appears to the board to be necessary.

(2) Written notice (Schedule A) shall, within five days <sup>Notice to clerk</sup> after the taking or obtaining possession, be given by the board to the clerk of the municipality wherein the land or unoccupied building is situate, and such notice shall be given whether possession is taken or obtained with the consent of the owner or otherwise.

(3) Where possession is taken without the consent of the owner, the board shall, within five days after taking possession, <sup>Notice to owner</sup> give the like notice to the owner.

(4) If the owner is not known or is not resident in Ontario <sup>Where owner or his address unknown</sup> or if his residence is unknown to the board, the board shall cause the notice to be published in two successive issues of a local newspaper having circulation in the municipality where the property is situate, and shall send by registered mail to the last known address, if any, of the owner a copy of the notice, and such publication is sufficient notice to the owner.

(5) The owner is entitled to compensation from the municipality <sup>Compensation</sup> wherein the land or building is situate for the use and occupation thereof, including any damages arising from such use and occupation, such compensation to be agreed upon between the council of the municipality and the owner and, in case they do not agree, the judge of the county or district court of the county or district in which the property is situate shall summarily determine the amount of the compensation and the terms of payment in such manner and after giving such notice as he sees fit. R.S.O. 1950, c. 306, s. 50.

**53.** Where any resistance or forcible opposition is offered <sup>Order for possession</sup> or apprehended to possession being taken of the land or building, the judge of the county or district court may, without notice to any person, issue his warrant to the sheriff of the county or district, or to any other person as he deems most suitable, requiring him to put and maintain the board, its agents or servants in possession, and to put down such resistance or opposition, which the sheriff or other person, taking with him sufficient assistance, shall accordingly do. R.S.O. 1950, c. 306, s. 51.

#### MEDICAL CARE OF INDIGENTS

**54.**—(1) Every municipality shall enter into an agreement with the medical officer of health or some other legally <sup>Municipality to provide for medical attendance for indigent persons</sup> qualified medical practitioner resident in the municipality or in a municipality adjacent thereto for his medical attendance

upon and care of persons suffering from the result of injury or disease who, in the opinion of the head of the municipality or of its welfare administrator, if any, are unable through poverty to pay for the necessary attendance and who are not cared for in a public or private hospital.

M.O.H. need not act unless agreement made

(2) This section does not impose any duty on the medical officer of health in respect of such cases unless an agreement has been entered into with him under subsection 1.

In absence of agreement M.O.H. to be deemed indigent M.O.H.

(3) Failing the making of any other agreement, the medical officer of health shall be deemed to be indigent medical officer of health for the municipality and shall be remunerated for his service as indigent medical officer, according to subsection 4.

Agreement to provide for remuneration

(4) Every such agreement shall provide for fair and reasonable remuneration for the service rendered. R.S.O. 1950, c. 306, s. 52.

Disputes as to remuneration of M.O.H., application to county judge

**55.**—(1) Where a medical officer of health claims that the salary paid to him by a municipality or the remuneration provided for under section 54 is not fair and reasonable, and gives notice of such claim in writing, signed by him, to the clerk of the municipality, and the council of the municipality neglects to comply with such demand, or directs the serving upon the medical officer of health of a notice disputing the claim, the medical officer of health, after the expiration of ten days from the receipt of the notice by the clerk, may apply in a summary manner to the judge of the county or district court of the county or district in which the municipality lies for an order allowing his claim and fixing the amount payable to him as salary under section 40 or as remuneration under section 54, and upon such application the judge shall hear the parties and their witnesses and shall make such order as he deems just, and in and by such order shall settle and determine the salary properly payable to such medical officer of health, and a fair and reasonable remuneration under section 54.

Time for making application

(2) If such application is not made by the medical officer of health within thirty days after receiving notice from the municipality disputing his claim, he shall be deemed to have abandoned the claim.

Powers of judge

(3) The judge, upon the application, shall take into consideration all the circumstances of the case and, among other matters, the physical extent, population and assessment of the municipality.

Application of R.S.O. 1960, c. 196

(4) *The Judges' Orders Enforcement Act* applies to every application and order made under this section. R.S.O. 1950, c. 306, s. 53.



## COMMUNICABLE DISEASES

**56.**—(1) The Minister may supply insulin to indigent persons free of charge upon the terms and conditions prescribed by the regulations. Insulin supplied free of charge

(2) The regulations may prescribe that the municipality in which the indigent person resides shall contribute a part of the cost of insulin, such contribution not to exceed 25 per cent of the cost. R.S.O. 1950, c. 306, s. 54. Cost of supplying

**57.** The Minister, out of such moneys as are appropriated by the Legislature therefor, may make contributions to institutions designated by the regulations toward the cost of the maintenance, treatment and special treatment of persons in such institutions who are suffering from poliomyelitis or from impairment of muscular function as a result of having been infected with poliomyelitis, in such amounts, in such manner and at such times as the regulations prescribe. 1954, c. 76, s. 2. Contributions toward cost of treatment of poliomyelitis

**58.**—(1) Whenever any householder knows or has reason to suspect that any person in his family or household or boarding or lodging with him has any communicable disease, he shall, within twelve hours, give notice thereof to the secretary of the local board or to the medical officer of health. Notice by householder

(2) The notice may be given to the secretary or to the medical officer of health at his office, or by letter addressed to either of them and mailed within the time above specified, and the secretary of the local board shall forthwith transmit to the medical officer of health notice of each case of communicable disease reported to him. How given

(3) Every such notice filed with the medical officer of health shall be transmitted forthwith by him to the secretary of the local board and shall be included in the weekly report required to be sent to the Department under section 23. R.S.O. 1950, c. 306, s. 55. Notice of communicable disease to be included in weekly report

**59.**—(1) No householder in whose dwelling any communicable disease occurs shall permit any person suffering from or exposed to such disease to leave, or any clothing or other property to be removed from, his house without the consent of the medical officer of health, who may forbid such removal or prescribe the conditions thereof. Removal of person or clothing prohibited

(2) Milk bottles and other containers used in the delivery of milk and that may be used again for the same or any other purpose shall not be returned from or taken away from any premises under quarantine for any communicable disease until the quarantine has been raised, and they shall then be removed Milk containers

in such manner as the medical officer of health directs and, before being refilled or used for any other purpose, they shall be disinfected by live steam in such manner as the regulations require.

Who to be  
deemed  
exposed to  
disease

(3) Every person in a house when a communicable disease exists therein, and every person who during the period of quarantine enters such house, shall be deemed to be exposed to the disease.

Com-  
municable  
diseases of  
the eyes

(4) It is the duty of every physician, medical officer of health, superintendent of a hospital, nurse, midwife and every person in charge of a maternity hospital, every householder, and every person in charge of a child, to see that such requirements as are prescribed by this Act or by the regulations are duly complied with in respect of ophthalmia neonatorum, trachoma, inflammation of the eyes of the newborn, or other communicable diseases of the eyes.

Maternity  
cases,  
duty as to  
reporting  
death of  
mother

(5) It is the duty of every physician, medical officer of health, superintendent of a hospital, nurse, midwife or other person in charge of a maternity case in which the death of a mother takes place from causes directly or indirectly associated with pregnancy or parturition forthwith to report such death and the causes thereof according to the regulations. R.S.O. 1950, c. 306, s. 56.

Report by  
physician

**60.**—(1) Whenever any legally qualified medical practitioner knows, or has reason to suspect, that any person whom he is called upon to visit is infected with any communicable disease, he shall within twelve hours give notice thereof to the medical officer of health of the municipality in which the diseased person is.

Superinten-  
dents of  
hospitals,  
etc.

(2) This section applies to the medical superintendent or person in charge of any general or other hospital in which there is known to him to be a patient suffering from any communicable disease.

Drugless  
practitioners  
R.S.O. 1960,  
c. 114

(3) Subsection 1 applies to any person registered and practising as a drugless practitioner under *The Drugless Practitioners Act*. R.S.O. 1950, c. 306, s. 57.

Precautions  
against  
spread of  
infection

**61.**—(1) Where a communicable disease is found or suspected to exist in a municipality, the medical officer of health and local board shall use all possible care to prevent the spread of infection or contagion by such means as in their judgment is most effective for the public safety.

Closing  
schools,  
churches,  
etc.

(2) The medical officer of health or local board, when it is considered necessary to prevent the spread of a communicable disease, may direct that any school or seminary of

learning, or any church or public hall or other place used for public gatherings or entertainment in the municipality, be closed and may prohibit all public assemblies in the municipality, and no such school, seminary, church, hall or public place shall be kept open after such direction for the admission of the public, nor be re-opened without the permission of the medical officer of health. R.S.O. 1950, c. 306, s. 58.

**62.** Where by the regulations this section is made applicable in respect of a communicable disease, the medical officer of health or the local board shall, as required by the regulations, isolate persons having such disease, persons who are or may be contacts therewith and persons who are or may be carriers thereof, and shall forthwith and as provided by the regulations quarantine the house or premises in which such disease exists or in which such persons are isolated. R.S.O. 1950, c. 306, s. 59. Isolation of patient

**63.**—(1) If any person in a municipality is infected or has recently been infected with, or exposed to, a communicable disease to which this section is made applicable by the regulations, the medical officer of health or local board shall make effective provision for the public safety by removing such person to a separate house, or by otherwise isolating him, and by providing medical attendance, medicine, nurses and other assistance and necessities for him. Isolation of infected persons

(2) The municipality is entitled to recover from such person the amount expended in providing such medical attendance, medicine, nurses and other assistance and necessities for him, but not the expenditure incurred in providing a separate house or in otherwise isolating him. R.S.O. 1950, c. 306, s. 60. Recovery of expenses

**64.**—(1) The medical officer of health shall take such steps as are necessary for the public safety with respect to any person in the municipality who in the opinion of the medical officer is a carrier of the germs of a communicable disease to which this section is made applicable by the regulations. Carrier of germs

(2) The medical officer of health may require any person in the municipality whom he believes to be such a carrier to submit to such clinical or laboratory examination or investigation as may be necessary to determine whether such person is a carrier. Examination

(3) The medical officer of health may give such orders or directions to any such carrier as he deems necessary to prevent the spread of the disease, and may direct such person to be isolated in any premises or locality, and may prohibit such person from residing in any premises or engaging in any work Orders and directions

that in the opinion of the medical officer is likely to cause the spread of the disease, and may do all such acts as are necessary to enforce the carrying out of any such order, direction or prohibition.

Compensation

(4) Upon evidence satisfactory to the Minister that a person is such a carrier and that he has been deprived of his means of livelihood by an order or direction of the medical officer of health, the Department may, out of any moneys appropriated by the Legislature for the purposes of the Department, pay compensation to such person, the amount of which to be determined in the regulations. R.S.O. 1950, c. 306, s. 61.

Recovery of expense incurred through neglect or refusal to carry out Act

**65.** Where, owing to the refusal or neglect of the medical officer of health, the local board or the municipality, a communicable disease is brought into another municipality which incurs expense in preventing the spread of such communicable disease, the municipality in default shall pay to the municipality incurring such expense the whole amount thereof, and it is recoverable as a debt in any court of competent jurisdiction. R.S.O. 1950, c. 306, s. 62.

Removal of patients

**66.** No person suffering from a communicable disease to which this section is made applicable by the regulations shall be removed at any time except by permission and under direction of the medical officer of health, nor shall any occupant of any house in which there exists any such communicable disease change his residence to any other place without the consent of the medical officer of health or without complying with such conditions as he prescribes. R.S.O. 1950, c. 306, s. 63.

Power to enter premises

**67.** The medical officer of health, or a legally qualified medical practitioner appointed by him in writing for that purpose, may enter in and upon any house, out-house or premises, in the day time, for the purpose of making inquiry and examination with respect to the state of health of any person therein, and cause any person found therein who is infected with a communicable disease to be removed to a hospital or some other proper place. R.S.O. 1950, c. 306, s. 64.

Entering and disinfecting public conveyances

**68.—(1)** Where there is reason to suspect that a person suffering from a communicable disease to which this section is made applicable by the regulations is in or upon any railway car, street railway car, steamboat, vessel or other conveyance, the medical officer of health or sanitary inspector of the municipality, or any member of the local board, may enter such conveyance and cause such person to be removed therefrom, and may detain the conveyance until it is properly disinfected, or such officer or member may, if he thinks fit, remain on or

in or re-enter and remain on or in such conveyance, with any assistance he may require, for the purpose of disinfecting it, and his authority continues in respect of such person and conveyance notwithstanding that the conveyance is taken into another municipality.

(2) The expense incurred for medical attendance, care, nursing, maintenance and all costs for disinfection shall be paid by the owner of the conveyance in which such person is found. Payment by owner of conveyance

(3) Any legally qualified medical practitioner or sanitary inspector authorized by the Department has the same authority as a medical officer of health under this section. Authority given by Department  
R.S.O. 1950, c. 306, s. 65.

**69.** Where a communicable disease is reported or discovered in a dwelling house or out-house occupied as a dwelling and such house or out-house is in a filthy and neglected state, the medical officer of health may, at the expense of the municipality, compel the inhabitants of the dwelling house or out-house to move therefrom, and may place them in sheds or tents or other proper shelter in some more suitable situation until measures can be taken under the direction and at the expense of the municipality for the immediate cleansing, ventilation, purification and disinfection of such dwelling house or out-house. Removal of persons from unsanitary dwellings  
R.S.O. 1950, c. 306, s. 66.

**70.** No person recovering from a communicable disease to which this section is made applicable by the regulations, and no nurse who has been in attendance on any such person, shall leave the premises or expose himself in any public place, street, shop, inn or public conveyance until he has received from the medical officer of health a certificate that in his opinion such person or nurse has taken such precautions as to his person, clothing and all other things that he proposes to bring from the premises as are necessary to insure the immunity from infection of other persons with whom such person or nurse may come in contact. Patients and nurses, precautions as to disinfection  
R.S.O. 1950, c. 306, s. 67.

**71.** Every such person and nurse shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things that have been exposed to infection, such measures as are prescribed by the regulations or by the medical officer of health. Measures prescribed by Department  
R.S.O. 1950, c. 306, s. 68.

**72.** No person suffering from or having recently recovered from a communicable disease to which this section is made applicable by the regulations shall mingle with the general Sanitary precautions before mingling with public

public, and no person having access to any such person, except the attending physician and clergyman, shall do so, until such sanitary precautions as are prescribed by the medical officer of health have been complied with. R.S.O. 1950, c. 306, s. 69.

Notice to be given before using public conveyance

**73.**—(1) No person suffering from or having recently recovered from a communicable disease to which this section is made applicable by the regulations shall expose himself, nor shall any person expose any one under his charge who is so suffering from any such disease in a railway car, street railway car, steamboat, vessel or other conveyance, without having previously notified the owner or person in charge of the conveyance of the fact of his having such disease.

Conveyance to be disinfected

(2) The owner or person in charge of any such conveyance shall not, after the entry of any infected person into his conveyance, allow any other person to enter it without having sufficiently disinfected it under the direction of the medical officer of health or sanitary inspector. R.S.O. 1950, c. 306, s. 70.

Bedding, clothing, etc.

**74.** No person shall give, lend, transmit, sell or expose any bedding, clothing or other article likely to convey a communicable disease without having first taken such precautions as the medical officer of health directs for removing all danger of communicating such disease to others. R.S.O. 1950, c. 306, s. 71.

Disinfection of houses, etc.

**75.** No person shall let or hire, or permit to be occupied, any house or room in a house in which a communicable disease has recently existed without having caused the house and premises used in connection therewith to be disinfected to the satisfaction of the medical officer of health, and, for the purpose of this section, the keeper of an inn or house for the reception of lodgers shall be deemed to let for hire part of a house to any person admitted as a guest into such inn or house. R.S.O. 1950, c. 306, s. 72.

False statements of persons renting or showing houses

**76.** No person letting for hire, or showing for the purpose of letting for hire, any house or part of a house, on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there previously having been therein any person, animal or thing suffering from or liable to be infected by a communicable disease, shall knowingly make a false answer to such question. R.S.O. 1950, c. 306, s. 73.

Transportation of infected persons

**77.**—(1) No common carrier shall knowingly accept for transportation or carry in Ontario, except under and subject to the regulations, any person suffering from a communicable

disease to which this section is made applicable by the regulations, or any infected article or articles of clothing, bedding or other property whatsoever.

(2) No carrier shall knowingly accept for transportation <sup>Corpses</sup> or carry in Ontario the body of a person who has died of a communicable disease, except under and subject to the regulations.

(3) Every person contravening the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of \$100. R.S.O. 1950, c. 306, s. 74. <sup>Penalty</sup>

**78.**—(1) Whenever a communicable disease exists in a <sup>School attendance from houses in which communicable disease exists</sup> house or household in which there is a person who is a student or pupil in, or a teacher or other person employed in any capacity in or about a university, college, school or other institution of learning, the householder shall, within twelve hours after the time such disease is known to exist, notify the principal, superintendent, head teacher or other person in charge of such institution, and also the medical officer of health, of the existence of such disease, and the person suffering therefrom shall not attend or be employed at such institution until a certificate has been obtained from the medical officer of health that he may safely do so.

(2) Whenever a local board, or any of its officers or members, are aware of the existence in a house of a communicable disease, they shall at once notify the principal, superintendent, head teacher or other person in charge of any university, college, school or other institution of learning at which any member of the household is in attendance, either as a student or pupil, or in or about which he is employed as a teacher or in any other capacity, and none of such last-mentioned persons shall, after such notice, be permitted to attend, or be employed or be in or about, such institution until the certificate mentioned in subsection 1 is obtained and presented. <sup>Duty of local board and teacher</sup>

(3) Whenever a professor, lecturer, instructor or teacher in any such institution of learning has reason to suspect that any other professor, lecturer, instructor or teacher in, or any student or pupil of, or any person employed in or about, such institution is suffering from a communicable disease or that there exists in a household of which he is a member any communicable disease, such first-mentioned person shall notify the medical officer of health thereof and shall not permit the attendance of the person suffering from such disease, if under his direction or control, until the medical officer of health certifies that such attendance may be safely allowed. <sup>Teacher to give notice of cases of communicable disease</sup>

Pupil not to attend within minimum time

(4) No student or pupil having suffered from a communicable disease shall be allowed to attend any such institution of learning within the minimum period prescribed by the regulations.

Boarding schools

(5) Whenever a communicable disease exists in a boarding school or other institution in which pupils are received for tuition and boarded or lodged, the head of the institution or the person in charge thereof shall immediately isolate the person suffering from such disease and any person in attendance upon him, and, within twelve hours after the disease is known to exist, shall notify the medical officer of health and shall not permit the person so suffering or any person in attendance upon him to mingle with the other pupils or inmates of the institution until the medical officer of health has certified that he may safely do so. R.S.O. 1950, c. 306, s. 75.

#### FLUORIDATION

Existing systems validated

**79.** Every municipality named in Schedule C shall be deemed to have had authority to establish and operate its fluoridation system and shall be deemed to have all such powers as may be necessary to maintain its fluoridation system. 1957, c. 97, s. 5, *part*.

Discontinuance of system

**80.**—(1) Any municipality named in Schedule C may at any time discontinue its fluoridation system or may at any time submit the question set out in subsection 2 to a vote of the electors of the municipality at the next municipal election, and, if a petition signed by 10 per cent or more of the total number of persons whose names appear on the last revised voters' list of the municipality as being qualified to vote at the municipal elections requesting the council to submit the question set out in subsection 2 is filed with the clerk of the municipality, the council shall submit such question to a vote of the electors at the next municipal election.

Question

(2) The question referred to in subsection 1 is:

Are you in favour of the continuation of the fluoridation of the public water supply in this municipality?

Where majority vote in the negative

(3) Where a majority of the persons referred to in subsection 1 vote in the negative, the municipality shall thereupon discontinue the fluoridation system. 1957, c. 97, s. 5, *part*.

#### PRE-NATAL EXAMINATION

Interpretation

**81.**—(1) In this section,



(a) "infant" means a child under the age of twelve months;

(b) "maternal and child health" means the care and treatment of expectant mothers, infants and children.

(2) The Minister may, in accordance with the regulations <sup>Maternal and child health programme</sup> in that behalf, establish a programme of maternal and child health.

(3) The maternal and child health programme may in- <sup>Idem</sup>clude the provision of the facilities and services mentioned in subsection 4 and the co-ordination of existing facilities and the dissemination of information respecting maternal and child health and such other matters as are deemed necessary for the carrying out of the programme.

(4) For the purpose of carrying out the programme of <sup>Idem</sup>maternal and child health, the Minister may, out of such moneys as are appropriated by the Legislature for the purpose,

(a) provide,

(i) diagnostic, technical and other facilities and services, and

(ii) medical and other services and substances, articles, accommodations and other facilities,

for the prevention and mitigation of disease or disorders among expectant mothers and children;

(b) provide for the examination of expectant mothers by medical practitioners; and

(c) pay grants to hospitals approved under *The Public Hospitals Act* for the establishment and operation of accommodation and facilities for the care and treatment of expectant mothers and infants, <sup>R.S.O. 1960, c. 322</sup>

in such manner and at such times and upon such conditions and,

(d) in respect of clauses *a* and *b*, pay for or contribute toward the cost of providing the facilities and services; and

(e) in respect of clause *c*, pay the grants in such amounts,

as are prescribed by the regulations. 1955, c. 65, s. 2.

#### NUISANCES

**82.** Any condition existing in a locality that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression <sup>Nuisances, what to be deemed</sup>

sion of disease shall be deemed a nuisance within the meaning of this Act. R.S.O. 1950, c. 306, s. 80.

Particular  
nuisances

**83.** Without restricting the general application of section 82 and for greater particularity,

- (a) any premises or part thereof so constructed or in such a state as to be injurious or dangerous to health;
- (b) any street, pool, ditch, gutter, water-course, sink, cistern, water or earth closet, privy, urinal, cesspool, drain, dung pit or ash pit, so foul or in such a state or so situated as to be injurious or dangerous to health;
- (c) any well, spring or other water supply that is injurious or dangerous to health;
- (d) any stable or other building in which animals are kept in such a manner or in such numbers as to be injurious or dangerous to health;
- (e) any accumulation or deposit of refuse wherever situate that is injurious or dangerous to health;
- (f) any deposit of offensive matter, refuse, offal or manure contained in uncovered trucks or wagons at a station or siding or elsewhere so as to be injurious or dangerous to health;
- (g) any work, manufactory, trade or business so situated as to be injurious or dangerous to health;
- (h) any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates or in which insufficient air space is allowed for each inmate to comply with the regulations;
- (i) any schoolhouse, public or private, factory, shop or other building that is not in a clean state or free from effluvia arising from a drain, privy, water or earth closet, urinal or other nuisance, or that is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust or other impurities generated therein that are injurious or dangerous to health, or that is so overcrowded as to be injurious or dangerous to the health of those employed or being therein;
- (j) any fireplace or furnace, the fires of which do not, so far as practicable, consume the smoke arising from the combustible matter used therein for working engines or used in a mill, factory, dye-house, brew-

ery, bakehouse or gas works, or in any manufacturing or trade process whatever;

- (k) any chimney emitting smoke in such quantity as to be injurious or dangerous to health; and
- (l) any burial ground, cemetery or other place of sepulture so located or so crowded or otherwise so arranged or managed as to be offensive or injurious or dangerous to health,

shall be deemed nuisances within the meaning of this Act. R.S.O. 1950, c. 306, s. 81.

**84.** The medical officer of health of a municipality, or Inspection of municipality any inspector or other person in the employ of the local board acting under his instructions, or any member of a local board, may enter, inspect and examine at any time of the day or night, as often as he thinks necessary, any premises in the municipality for the purpose of carrying out this Act, and may take such action as he deems necessary for carrying it out, and any person in charge of such premises for the time being shall render such aid to the medical officer of health or other person as is necessary to make such inspection or examination. R.S.O. 1950, c. 306, s. 82.

**85.** Where a medical officer of health, inspector or other Care of aged and infirm persons person in making an inspection or examination under section 84 finds that any premises are used for the accommodation of aged or infirm persons, or children between the ages of three years and sixteen years, for gain or reward, he may give such orders or directions as, in his opinion, are necessary to ensure that such persons receive proper care and treatment and, in the event that his orders and directions are not carried out, he may order that the premises cease to be used for such accommodation. R.S.O. 1950, c. 306, s. 83.

**86.**—(1) Every medical officer of health shall ensure that Duty of medical health officer the municipality or location for which he is appointed is regularly inspected in order to prevent nuisances or to abate any existing nuisance.

(2) If upon such examination he finds any premises in a Order for cleansing filthy or unclean state or that any matter or thing is there that, in his opinion, may endanger the public health, he may order the owner or occupant of the premises to cleanse the premises and to remove or destroy what is so found therein. R.S.O. 1950, c. 306, s. 84.

**87.** Where the owner of any premises wherein a nuisance Where owner unknown or non-resident exists is unknown or does not reside in the municipality and the premises are unoccupied or the occupant is unable to

remove the nuisance, the medical officer of health or the local board may, without previous notice, immediately cause the nuisance to be abated. R.S.O. 1950, c. 306, s. 85.

Disposition  
of articles  
removed

**88.** Where, under this Act, the regulations or a municipal by-law, a local board or a medical officer of health or sanitary inspector removes anything that is likely to be injurious to or to become or cause or is a nuisance, such thing shall be subject to the disposition of the local board or, if the officer is acting under a by-law of a municipal council, is subject to the disposition of the council, and the owner of such thing has no claim in respect thereof. R.S.O. 1950, c. 306, s. 86.

Service of  
notice  
requiring  
abatement  
of nuisance

**89.**—(1) Wherever the local board or medical officer of health is satisfied of the existence of a nuisance, the medical officer of health shall serve a notice on the person by whose act, default or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance exists or from which it arises, requiring him to abate it within a time to be specified in the notice and to execute such works and do such things as may be necessary for that purpose.

Service on  
owner when  
required

(2) Where the nuisance arises from the want or the defective construction of a structural convenience or where there is no occupier of the premises, notice shall be served on the owner.

Where  
owner and  
occupant  
not in fault

(3) Where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default of the owner or occupier of the premises and it is therefore improper that the owner or occupier should be required to abate it, the local board shall abate the nuisance at the expense of the municipality. R.S.O. 1950, c. 306, s. 87.

Where  
cause of  
nuisance  
out of muni-  
cipality

**90.** Where a nuisance appears to be wholly or partially caused by some act or default committed or taking place outside the municipality, the local board of the municipality affected shall cause an inspection to be made and, when necessary, shall take or cause to be taken against the person by whose act or default the nuisance is caused in whole or in part any proceedings authorized by this Act in relation to nuisances with the same incidents and consequences as if such act or default were committed or took place wholly within its jurisdiction. R.S.O. 1950, c. 306, s. 88.

Where con-  
sideration  
of difficulty  
involved

**91.**—(1) If, on investigation by the local board, a nuisance is found to exist and if, after the board has required its removal or abatement within a specified time, the board finds

that default in removal or abatement has been made and the case appears to the local board to involve the expenditure or loss of a considerable sum of money or serious interference with a trade or industry or other considerations of difficulty, the Department at the request of the local board may investigate and report upon the case.

(2) If the report of the Department recommends the re-  
Application to judge of Supreme Court  
 moval or abatement of the nuisance, the local board or any ratepayer residing in the municipality, or within a mile thereof, may apply to a judge of the Supreme Court for an order for the removal or abatement of the nuisance, and to restrain the proprietors of any such industry from carrying on the same until the nuisance has been abated to the satisfaction of the Department, and the judge may make such order upon the report of the Department or upon such further evidence as he deems meet.

(3) *The Judges' Orders Enforcement Act* applies to every  
Application of R.S.O. 1960, c. 196  
 order made by a judge under this section. R.S.O. 1950, c. 306, s. 89.

**92.**—(1) Where the owner or occupier of any premises in  
Where owner or occupier neglects to abate  
 which a nuisance exists fails, after due notice, to abate it, the medical officer of health or sanitary inspector may enter the premises and take such steps as may be necessary to abate it.

(2) All reasonable costs and expenses incurred in abating  
Recovery of expenses  
 a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default or sufferance the nuisance was caused, and are recoverable from both the owner and the occupier for the time being of the premises.

(3) If the costs and expenses incurred in abating the nuisance are not paid by the owner or occupier within one month after a demand of payment, a statement of the amount of the costs and expenses and of the person by whom and the premises in respect of which they are payable shall be delivered to the clerk of the municipality who shall insert the amount in the collector's roll, and may be collected in like manner as municipal taxes.

(4) The occupier for the time being of the premises may deduct any money recovered or collected from him that, as  
Occupier's right to deduct payment from rent  
 between him and the owner, the latter ought to pay out of the rent then due or from time to time becoming due in respect of the premises.

(5) An occupier shall not be required to pay any further  
Limit of amount recoverable from occupier  
 sum than the amount of rent for the time being due from him or that, after demand of such costs or expenses and after

notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by the occupier unless he refuses truly to disclose the amount of his rent and the name and address of the person to whom it is payable, and the burden of proof that the sum demanded from the occupier is greater than the rent due by him at the time of such notice, or which has since accrued, is on the occupier. R.S.O. 1950, c. 306, s. 90.

Where application in respect of nuisance must be to Supreme Court

**93.**—(1) Where such removal or abatement involves the loss or destruction of property to the value of \$2,000 or more, no determination or order of the Department or of a local board for the removal or abatement shall be enforced except by order of a judge of the Supreme Court.

Application for order

(2) The order may be made upon the application of the Department or of the local board. R.S.O. 1950, c. 306, s. 91.

#### OFFENSIVE TRADES

Restriction on establishment of offensive trades

**94.** Any person who, without the consent of the local board or of the municipal council, establishes a trade or business or manufacture for,

- (a) blood boiling;
- (b) bone boiling;
- (c) refining coal oil;
- (d) extracting oil from fish;
- (e) storing hides;
- (f) soap boiling;
- (g) tallow melting;
- (h) tripe boiling;
- (i) slaughtering animals;
- (j) tanning hides or skins;
- (k) manufacturing gas;
- (l) manufacturing glue;
- (m) manufacturing fertilizer from dead animals or from human or animal waste;

or any other trade, business or manufacture that is or may become offensive or that is by the regulations declared to be a noxious or offensive trade, business or manufacture, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$250 in respect of the

establishment thereof and to a fine of not less than \$20 for every day on which, after notice in writing by the local board or an officer thereof to desist, such business, trade or manufacture is carried on, whether there has or has not been any conviction in respect to its establishment. R.S.O. 1950, c. 306, s. 92.

**95.** Any person who keeps or stores any rags, bones, junk, bottles, scrap iron or other metals, or other refuse, in a municipality, except on premises approved of by the medical officer of health, is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50, and the continuance of the offence for each week after conviction shall be considered a separate offence. R.S.O. 1950, c. 306, s. 93.

#### MEDICAL AND DENTAL INSPECTION IN SCHOOLS

**96.**—(1) For the purposes of this section and section 97, "school board" means a board having charge over a public, separate, continuation, high or vocational school. R.S.O. 1950, c. 306, s. 94 (1).

Interpretation

(2) A school board may enter into an agreement with the local board of a municipality or health unit to provide for the medical and dental inspection and dental treatment by the local board of the pupils of the school or schools under the charge of the school board. R.S.O. 1950, c. 306, s. 94 (2); 1957, c. 97, s. 6.

Agreement for medical and dental inspection of school pupils

(3) Where an agreement is entered into by a local board under subsection 2, it has full power and authority to and, until otherwise determined by the school board, shall provide medical and dental inspection of the pupils of the schools mentioned in the agreement in accordance with this or any other Act relating thereto and any regulations made under this or any such other Act, and shall do and perform all acts, matters and things necessary for the purpose.

Power of local board

(4) It is not necessary for the purposes of subsection 2 for an agreement entered into under it to provide for medical and dental inspection of the pupils of all schools in the charge of a school board or for all the schools in a municipality, but the agreement may relate to the pupils only of any one or more of such schools.

Agreement need not apply to all schools

(5) Where a school board is desirous of entering into an agreement with a local board under subsection 2 and the local board refuses to enter into it, the Minister, upon the application of the school board and after hearing the representations of the local board and if satisfied that the standards

When local board must provide inspection

established under this Act for medical and dental inspection of pupils can be provided for, may direct the local board to enter into the necessary agreement and provide for such inspection. R.S.O. 1950, c. 306, s. 94 (3-5).

Public  
health  
nurses

**97.**—(1) Any school board may enter into an agreement with a county to provide for the employment by and at the expense of the county of public health nurses, school medical officers and dental officers in the schools under the control of the school board.

Medical  
officer  
to direct

(2) Where an agreement is entered into under this section and no school medical officer is appointed by the county, the medical officer of health having jurisdiction in the place where the schools are located shall direct and control the activities of the public health nurses so employed.

Levying  
cost

(3) Where an agreement does not provide for a service in the schools of all the local municipalities forming part of the county, the county may levy the cost against the local municipalities in which the service is provided. R.S.O. 1950, c. 306, s. 95.

#### INSPECTION OF LODGING HOUSES, LAUNDRIES, ETC.

M.O.H. may  
enter and  
examine  
lodging  
houses,  
tenements  
and  
laundries

**98.**—(1) The medical officer of health or any sanitary inspector acting under his instructions may, at any time of the day or night, as often as he thinks necessary, enter into a lodging house, tenement where rooms are rented, or a laundry where the owner or employees reside upon the premises, or other building where he has reason to suspect that it is overcrowded or occupied by more persons than is reasonably safe for their health.

When found  
overcrowded  
or un-  
sanitary

(2) If upon such examination it is found that the premises are occupied by more persons than is reasonably safe for the health of the occupants and that the sleeping rooms are such that 600 cubic feet of air space cannot be provided for each occupant, or that the rooms or premises occupied by them are in a filthy or unclean state, or that any matter or thing is there that, in the opinion of the medical officer of health founded on his own inspection or on the report of the sanitary inspector, may endanger the public health or the health of the occupants, the medical officer of health may order the owner or occupant to remove the inmates from the premises, or to remove that which causes the premises to be filthy or unclean and put the rooms in a condition fit for human habitation. R.S.O. 1950, c. 306, s. 96.

Placarding  
premises

**99.** Where in the opinion of the medical officer of health any premises are so situated, so constructed or so improperly



lighted, or in any other respect of such a character or in such a condition as to be unfit for human habitation or dangerous to health, he may cause the premises to be closed and may affix a notice thereon in a prominent place setting forth the reason for the closing and that the premises are closed by order of the medical officer of health, and no person shall pull down or deface such notice or use the premises closed as a dwelling or cause the same to be so used. R.S.O. 1950, c. 306, s. 97.

#### INSPECTION OF UPHOLSTERED OR STUFFED ARTICLES

**100.** A medical officer of health or an inspector or other person in the employ of a local board or a member of a local board or an officer of the Department may at all reasonable times inspect, Inspection, etc., of upholstered or stuffed articles

- (a) the premises where upholstered or stuffed articles are constructed, manufactured, altered, renovated, repaired, renewed, covered or recovered;
- (b) the premises where materials for the construction, manufacture, alteration, renovation, repair, renewal, covering or recovering of such articles are processed;
- (c) the premises where such articles are offered for sale; and
- (d) upholstered or stuffed articles,

and for the purpose of the inspection may seize, detain and open any upholstered or stuffed article and remove part therefrom, may prohibit the sale of any such article that is not labelled or where the labelling contravenes the regulations and may affix "off sale" labels. 1959, c. 79, s. 2.

#### INSPECTION OF DAIRIES, ETC.

**101.—(1)** The medical officer of health may make, or cause to be made by a food and dairy inspector or other competent person approved by the Department, an inspection, Inspection of dairies, etc. periodical or otherwise, of all dairies, cheese factories, creameries, dairy farms, slaughter-houses and other lands or premises wherein or from which any milk, cream, cheese, butter, meat or other product intended for human consumption is produced, handled, stored, made, processed, packed, bottled, distributed or delivered, and if upon or as a result of any such inspection he finds that any such building, land or premises, or the equipment, machinery, works or other part of the plant therein, or any other matter or thing therein, is in a filthy or unclean state or that the operations carried on therein are

not or cannot be carried on in a sanitary manner, or that persons are employed therein who from incompetency, uncleanliness or otherwise are not proper to be employed therein so that from, or by reason of any such matters or things the public health may be endangered, he may order the owner or occupant of such building, land or premises to remedy such matters or things to his satisfaction and, until such time as he is satisfied that such matters or things are remedied, he may prohibit or regulate the distribution, delivery, sale or offering for sale of any products from such building, land or premises.

Where distribution, delivery, etc., is made in other centres

(2) When any of the products mentioned in subsection 1 are distributed or delivered from or are made in any of the buildings, land or premises mentioned in that subsection and are sold or offered for sale in a municipality other than the one in which the building, land or premises is situate, the medical officer of health of such other municipality may with respect thereto exercise the powers conferred by subsection 1 and may prohibit or regulate the distribution, delivery, sale or offering for sale of such products in the municipality in which he is the medical officer of health.

Appeal from order, etc.

(3) The owner or occupant of a building, land or premises who is dissatisfied with an order, prohibition or regulation made by a medical officer of health under this section may, within seven days of notice thereof being served upon him personally or sent by registered mail at his last known address or at the building, land or premises in question, appeal from such order, prohibition or regulation to the Minister whose decision in the matter is final and not subject to question or review in any court.

Offence

(4) Any person contravening the terms of any order, prohibition or regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$100 for each offence, and any product distributed, delivered, sold or offered for sale in contravention of any such prohibition or regulation may upon the order of the convicting justice or magistrate be confiscated and destroyed. R.S.O. 1950, c. 306, s. 99.

#### PASTEURIZATION OF MILK

No person to sell un-pasteurized milk

**102.**—(1) No person shall sell, offer for sale or deliver in any city or town, or in any other municipality or other area to which, by Order in Council made upon the recommendation of the Minister, this section is made applicable, milk that has not been pasteurized in a pasteurization plant to which the Department has issued a certificate of approval in the prescribed form.

(2) This section does not apply to milk brought into any <sup>Exceptions</sup> such city, town, municipality or area by the producer and sold by wholesale to a distributor, nor to products of milk prepared in a plant and by methods approved by the Department.

(3) Any medical officer of health, sanitary inspector, food <sup>Seizure of</sup> and dairy inspector and any person authorized by a medical <sup>milk</sup> officer of health may, without laying any information or obtaining any warrant, seize and remove any milk sold, offered for sale or delivered, including any container in which such milk is found, for the purpose of causing an analysis of such milk to be made.

(4) Any person who contravenes any of the provisions of <sup>Offence</sup> this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1950, c. 306, s. 100.

#### WATERWORKS AND SEWERAGE

**103.**—(1) Where the Department reports in writing that <sup>Report of</sup> it is of opinion that it is necessary in the interest of the public <sup>Department</sup> health that a waterworks system or an adequate water purifi- <sup>re waterworks</sup> cation plant, or a sewer or a sewerage system, or an adequate <sup>or sewerage,</sup> sewage treatment plant should be established or continued, or <sup>assent of</sup> that any existing waterworks system, water purification plant, <sup>electors not</sup> sewer or sewerage system, or sewage treatment plant should be <sup>required</sup> improved, extended, enlarged, altered, renewed or replaced, it is not necessary to obtain the assent of the electors to a by-law for incurring a debt for any of such purposes.

(2) Where the Department has reported as provided by <sup>Council on</sup> subsection 1, the council of the municipality shall forthwith <sup>report of</sup> pass all necessary by-laws for the establishment of the works <sup>Department</sup> reported upon and the municipality shall immediately com- <sup>to pass</sup> mence the work and carry it to completion without unneces- <sup>by-laws and</sup> sary delay. <sup>carry out</sup> <sup>works</sup>

(3) The by-law shall not be finally passed until the approval <sup>By-law not</sup> of the Department has been obtained to the work to be done <sup>to be passed</sup> as hereinbefore provided and it shall recite such approval. <sup>until</sup> <sup>approved</sup> R.S.O. 1950, c. 306, s. 109.

#### ICE SUPPLIES

**104.**—(1) The local board of a municipality in which <sup>Regulation</sup> supplies of ice are obtained, sold and stored may adopt such <sup>of ice supply</sup> regulations regarding the source of supply and the place of <sup>by local</sup> storage of the ice as are, in its opinion, best adapted to secure <sup>board</sup> the purity of the ice and prevent injury to the public health, and for the supervision of ice supplies, whether obtained in

or outside the municipality, whenever the ice is intended for use in the municipality in which the board has jurisdiction.

Permit for  
cutting ice

(2) No ice shall be cut from any lake, river, stream, pond or other water for the purpose of being sold or used for domestic purposes unless a permit therefor has been first obtained from the local board, and no person shall sell or deliver or dispose of in any way any ice for domestic purposes without first obtaining a permit therefor from the local board, and the local board may refuse a permit or revoke any granted by it when in its judgment the use of any ice cut or sold or to be cut or sold for domestic purposes under the permit is or would be detrimental to the public health.

Local board  
to enforce  
regulations

(3) Every local board shall enforce the regulations of the Department and may prohibit the sale and use of any ice in the municipality when, in its judgment, the ice is unfit for use or the use of it would be detrimental to the public health.

Prohibiting  
distribution  
in mun-  
cipality

(4) The local board may prohibit and, through its officers, prevent the bringing of any such ice for the purpose of sale or use for domestic purposes into the municipality and may in the same manner prevent the sale of any such ice for domestic purposes in the municipality when, in its judgment, the ice is unfit for use or the use of it would be detrimental to the public health. R.S.O. 1950, c. 306, s. 113.

#### INSPECTION OF ANIMALS, MEAT, ETC.

Inspection  
of food  
supplies

**105.**—(1) A medical officer of health, food and dairy inspector or sanitary inspector may at all reasonable times inspect or examine any animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread, flour, milk or other article exposed for sale or deposited in any place for the purpose of sale, or for preparation for sale, and intended for food for man, and, if such article appears to him to be diseased or unsound or unwholesome or unfit for food for man, he may seize and carry away the article, or cause it to be seized and carried away, in order that it may be destroyed or so disposed of as to prevent it from being exposed for sale or used as food for man.

Offence

(2) The person to whom the article belongs or did belong at the time of exposure for sale, or in whose possession or on whose premises the article was found, is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for every such article, unless he proves that he did not know and had no means of knowing the condition of the article.

(3) Where it is charged upon a prosecution under this section that an animal, or the meat or milk of an animal, is affected with a disease named in section 2 of the *Animal Contagious Diseases Act* (Canada), or with wens, clyers, actinomycosis or osteosarcoma or any disease of a cancerous nature, the medical officer of health may make, or cause to be made, or request the Department to make, such scientific examination of the animal, meat or milk suspected of being diseased as may enable it to be determined whether or not such disease exists, and the Minister may instruct an officer of the Department to make such examination or cause it to be made.

Scientific examination where existence of certain diseases charged  
R.S.C. 1952, c. 9

(4) The expenses of such examination, together with a fee not exceeding \$10, shall be certified by the Deputy Minister and is payable by the treasurer of the municipality in which the animal, meat or milk is found.

Expenses and fee on examination

(5) In a prosecution under this section, the burden of proof that an article in respect of which the charge is laid is not kept for sale or intended for food for man is upon the person charged.

Burden of proof

(6) No person shall manufacture or bottle for sale as food for man any beverage such as carbonated water, natural and artificial mineral water, spring and distilled water, unfermented wine or cordials, concentrated syrup, extracts, essence, fruit juice or any dry substance in concentrated form for the manufacture of any beverage, brewed ginger beer, or other non-intoxicating drink, without first obtaining a permit in writing so to do from the medical officer of health and the local board of the municipality in which the manufacturing or bottling is to be conducted.

Permit required for manufacturing carbonated water, etc.

(7) When the medical officer and local board of health desire to cancel a permit, they shall give notice in writing of the cancellation to the person or the agent of the person to whom the permit was issued, and the cancellation does not become effective until thirty days after receipt of the notice by the person or agent.

Cancellation of permit

(8) Such permit may be refused and, if granted, may be cancelled or revoked for failure to comply with the regulations pertaining to the building, equipment and methods of manufacture or bottling of such beverage, or if such beverage upon analysis is found to be contaminated or contain any injurious ingredients, or for other cause is found to be unfit for food. R.S.O. 1950, c. 306, s. 114.

Grounds for refusal or revocation

**106.**—(1) Whenever a medical officer of health, food and dairy inspector or sanitary inspector knows or has reason to believe that blood, offal or the meat of any dead animal

Feeding certain things to hogs

that has not been previously boiled or steamed when fresh or before becoming putrid or decomposed or that, although boiled or steamed, is putrid or decomposed has been or is being fed to hogs, he may seize and carry away the hogs, whether dead or alive, or otherwise detain them so as to prevent their removal.

Offence

(2) The owner, or person in charge of, or any person, found feeding any such blood, offal or meat to hogs is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50 and, upon his conviction, the medical officer of health shall order the hogs, whether dead or alive, to be destroyed or so disposed of as to prevent them from being exposed for sale or used for food for man.

Burden of proof

(3) In a prosecution under this section in which it is proved that blood, offal or decomposed meat was found upon the premises, the burden of proof that it was not intended to be fed to hogs is upon the person charged. R.S.O. 1950, c. 306, s. 115.

Cooking of garbage

**107.** Any person who cooks garbage or other refuse that has been collected or otherwise obtained from other persons, except on premises approved by the medical officer of health, is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50, and the continuance of the offence for each week after conviction shall be considered a separate offence. R.S.O. 1950, c. 306, s. 116.

Inspection of slaughter houses

**108.—**(1) Every butcher and other person selling meat shall, on the request of the medical officer of health, make an affidavit as to the place at which the slaughter of his meat is carried on and, where it is outside the municipality, such place shall be open to inspection by the medical officer of health, food and dairy inspector or by an inspector appointed by the council of the municipality in which the meat is offered for sale.

Notice to discontinue sale

(2) In the case of the refusal or neglect to make such affidavit or permit such inspection, the local board may give notice in writing to the butcher or other person to discontinue the sale of meat in the municipality.

Offence

(3) If after receiving such notice the butcher or other person sells or offers for sale any meat in the municipality, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 306, s. 117.

Offence

**109.—**(1) Any person who knowingly sells, or has in his possession with intent to sell as food for man, the meat of a calf less than three weeks old is guilty of an offence and on

summary conviction is liable to a fine of not less than \$10 and not more than \$50.

(2) In a prosecution under this section in which it is proved that the meat of a calf less than three weeks old was found upon the premises, the burden of proof that it was not intended as food for man is upon the person charged. R.S.O. 1950, c. 306, s. 118.

#### MUNICIPAL SLAUGHTER-HOUSES, ABATTOIRS, ETC.

**110.**—(1) The council of a city or town may by by-law provide for the establishment in the municipality, or in an adjoining municipality whose council has by by-law sanctioned its establishment therein, of a public slaughter-house or abattoir with proper cattle-yards and pens in connection therewith for the proper keeping therein of animals intended for slaughter, and for charging fees for the use thereof.

(2) Every such slaughter-house, abattoir, cattle-yard and pen shall be constructed, equipped and regulated in conformity with the regulations. R.S.O. 1950, c. 306, s. 119.

**111.** The local board of the city or town by which the slaughter-house, abattoir, cattle-yard or pen is established has the supervision of it and is responsible for the due carrying out of the regulations, and the costs of the supervision and inspection shall be paid from time to time by the treasurer of the city or town out of the fees charged on the order of the local board. R.S.O. 1950, c. 306, s. 120.

**112.** Such local board may employ one or more persons, approved of by the medical officer of health, to inspect at the slaughter-house, abattoir, cattle-yard or pen all animals, carcasses and meat brought into the municipality and intended for food for man. R.S.O. 1950, c. 306, s. 121.

**113.** Any meat-packing establishment is subject to inspection in the same manner as a municipal slaughter-house or abattoir. R.S.O. 1950, c. 306, s. 122.

#### USE OF FORCE—ASSISTANCE BY CONSTABLES, ETC.

**114.** Any person who obstructs, hinders, delays or prevents an officer of the Department, or any local board or a member thereof, medical officer of health or sanitary inspector, or any person employed by or acting under the direction of any of them in the exercise of any of the powers conferred, or performance of any of the duties imposed upon them by this Act or by the regulations, or in carrying out any order lawfully given by them, is guilty of an offence and on summary

conviction is liable to a fine of not less than \$25 and not more than \$100. R.S.O. 1950, c. 306, s. 123.

Calling for  
assistance  
of con-  
stables, etc.

**115.** Whenever a local board or a member thereof, medical officer of health or sanitary inspector is required or empowered by this or any other Act or by the regulations or by a municipal by-law to do or to prevent or to direct or enforce the doing of anything, such board or member or officer or inspector may use such force and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any constable or other person, and it is the duty of every constable so called upon to render such assistance. R.S.O. 1950, c. 306, s. 124.

#### FINES AND THE RECOVERY THEREOF

Offences re  
communic-  
able  
diseases

**116.**—(1) Any person who contravenes any of the provisions of sections 58 to 78 for which no other penalty is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100.

Other  
offences

(2) Any person who contravenes any other provision of this Act or of the regulations or of any municipal by-law passed under this Act, or who wilfully disobeys or neglects to carry out any order or direction lawfully given by the Department, a local board, member of a local board, medical officer of health or sanitary inspector, unless it is otherwise provided, is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$500.

Continuance  
of offence

(3) Where a person has been convicted of an offence under this Act or under any regulation or by-law enacted or in force thereunder, and the offence is in the nature of an omission or neglect, or is in respect of the existence of a nuisance or other unsanitary condition that it is such person's duty to remove, or of the erection or construction of anything contrary to this Act or any regulation or by-law enacted or in force thereunder, then, if the proper authority in that behalf gives reasonable notice to the person to make good the omission or neglect, or to remove the nuisance or unsanitary condition, or to remove the thing that has been erected or constructed contrary to this Act or to such regulation or by-law, and default is made in respect thereof, the person offending may be convicted for such default and is liable to the same punishment as was or might have been imposed for the original offence, and so on, from time to time, as often as after another conviction, a new notice is given and the default continues, and, in case of a third or subsequent conviction, it is not necessary in the information, conviction or other proceedings to make any reference to any conviction, except the first,



or to any notice except that in respect of which the proceedings are then being taken.

(4) Every person who sells either publicly or privately any <sup>Offence</sup> of the biological products supplied to the public free of charge by the Department is guilty of an offence and on summary conviction is liable to a fine of \$100 and, in default of payment thereof, is liable to imprisonment for a term of three months.

(5) Every person who sells either publicly or privately <sup>Offence</sup> any report or information received from the Department relating to any test of water or milk, and every person who charges any fee for any such report or information, is guilty of an offence and on summary conviction is liable to a fine of \$100, and, in default of payment thereof, is liable to imprisonment for a term of not more than three months. R.S.O. 1950, c. 306, s. 125.

**117.** The fines imposed by or under the authority of this <sup>Recovery of fines</sup> Act are recoverable before a magistrate or two justices of the peace. R.S.O. 1950, c. 306, s. 126.

**118.—**(1) Every fine recovered under this Act where the <sup>Application of fines</sup> prosecution is by or at the instance of a municipality, or the local board, or the medical officer of health or other health officers of the municipality, shall be paid to the treasurer of the municipality in which the offence was committed for the use of the local board.

(2) Where the prosecution is at the instance of the Department or of any provincial officer or where the offence was <sup>Offences in unorganized territory</sup> committed in territory without municipal organization, the fine shall be paid to the Treasurer of Ontario. R.S.O. 1950, c. 306, s. 127.

**119.** Where any act or omission is a contravention of any express provision of this Act and is also a contravention of a by-law of a municipality in respect of a matter over which the council of the municipality has jurisdiction, a conviction may be had under either the Act or the by-law, but a conviction shall not be made under both for the same act or omission. R.S.O. 1950, c. 306, s. 128.

**120.** In a prosecution under this Act or the regulations, <sup>Certificate to be evidence of fact</sup> upon production of a certificate or report signed or purporting to be signed by a provincial analyst as to the analysis or ingredients of any milk or water, or any upholstered or stuffed articles including mattresses, quilts, covers, pillows and other bedding, furniture and dolls, such certificate or report is *prima facie* evidence of the facts stated therein and of the

authority of the person giving or making the certificate or report without any proof of appointment or signature. R.S.O. 1950, c. 306, s. 129.

Certificate  
of poverty  
or inability  
a bar to  
prosecution

**121.** Where a person who is unable from poverty or other sufficient cause to comply with any of the provisions of this Act or of the regulations gives notice of such inability to the medical officer of health, and the local board on examination is satisfied of such inability, the secretary thereof shall give his certificate to that effect, and such certificate is a bar to all proceedings against such person for a period of six months. R.S.O. 1950, c. 306, s. 130.

#### STATUTORY BY-LAW

Application  
of Sched. B

**122.—(1)** Subject to section 8, the by-law in Schedule B shall be in force in every municipality as if enacted by the council thereof, and the council of every municipality may pass by-laws with the approval of the Minister for making additional requirements in respect of any matters dealt with by the by-law in Schedule B.

Power of  
municipality  
to amend  
Sched. B

(2) The council of any municipality may, with the approval of the Minister, amend the by-law in Schedule B for the purposes of such municipality so as to conform to the requirements of the municipality or to meet such special circumstances as, in the opinion of the Minister, may warrant such amendment and, subject to section 8, every such amendment has the same force and authority as a regulation made by the Minister. 1953, c. 87, s. 6.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

- (a) prescribing that the by-law in Schedule B, or any of the matters dealt with therein, shall apply *mutatis mutandis* to territory without municipal organization or any area forming a part thereof designated by the regulations;
- (b) amending the by-law in Schedule B,
  - (i) so as to conform with the requirements of any area mentioned in clause a, or
  - (ii) to meet such special circumstances as may warrant such amendment, or
  - (iii) for making additional requirements in respect of any matter mentioned in Schedule B. 1960, c. 92, s. 3 (1).

## POSTPONEMENT OF MUNICIPAL AND SCHOOL ELECTIONS

**123.**—(1) Where the Minister reports to the Lieutenant Governor that on account of the prevalence in a municipality of a communicable disease it would be dangerous to hold an election in the municipality, the Lieutenant Governor in Council may, of his own motion or upon the application of the council of the municipality, issue his proclamation postponing the holding of any intended municipal or school election for a period not exceeding three months, and may from time to time further postpone the election if, in the opinion of the Minister, the necessity for postponement continues.

Postpone-  
ment of  
election in  
case of  
epidemics

(2) The Lieutenant Governor may, by the proclamation, name the days for holding the nomination and polling, but, if no days are named therefor, the council shall as soon as practicable after the period named in such proclamation, or the last of such proclamations, expires, by by-law name the days for the nomination and polling. R.S.O. 1950, c. 306, s. 132.

Fixing date  
for holding  
postponed  
election

## UNORGANIZED TERRITORY

**124.** Sections 125 to 131 apply only to territory without county organization. R.S.O. 1950, c. 306, s. 133.

Application  
of ss. 125  
to 131

**125.**—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

Regulations

- (a) respecting any industry and the conditions under which the industry may be carried on for the purpose of preventing nuisances and the outbreak or spread of disease;
- (b) providing for the cleansing, regulating and inspection of lumbering camps and of mining camps and railway construction works and of other places where labour is employed;
- (c) providing for the inspection of houses and premises; R.S.O. 1950, c. 306, s. 134 (1), cls. (a-c).
- (d) providing for the employment of duly qualified medical practitioners by employers of labour in lumbering camps and in mining camps and on railway construction works and other works where labour is employed; R.S.O. 1950, c. 306, s. 134 (1), cl. (d); 1959, c. 79, s. 3 (1).
- (e) respecting the entering into, adoption, establishment, operation, termination or suspension of,
  - (i) any contract for the employment of a duly qualified medical practitioner to undertake

the medical and surgical care and treatment of employees of one or more employers of labour mentioned in this section,

(ii) any scheme or arrangement for the medical and surgical care and treatment of employees of one or more employers of labour mentioned in this section, or

(iii) any scheme or arrangement for the hospital care and treatment of employees of one or more employers of labour mentioned in this section who are not residents as defined by the regulations under *The Hospital Services Commission Act* and who are not entitled to receive insured services under a hospitalization plan administered by or under the authority of the government of another province pursuant to an agreement made by that province with the Government of Canada under the *Hospital Insurance and Diagnostic Services Act* (Canada),

R.S.O. 1960,  
c. 176

1957, c. 28  
(Can.)

and prescribing the forms to be used and reports to be made to the Minister; 1959, c. 79, s. 3 (2).

(f) prescribing, with respect to the deductions referred to in section 126, the amount thereof, the method of collection, the accounting therefor, the reports to be made in connection therewith, and providing for the inspection of employers' books and the conditions of payment to a duly qualified medical practitioner or other person entitled to receive such payments. R.S.O. 1950, c. 306, s. 134 (1), cl. (f).

General,  
local or  
special

(2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry.

Expenses

(3) The expenses of carrying out the regulations shall be paid to the person entitled thereto by the persons whose duty it is to carry out such regulations, and the amount so to be paid shall be apportioned by the Minister among them as he deems proper, and every amount so apportioned shall be deemed to be a debt due from the person and may be recovered by the person entitled thereto by action in any court of competent jurisdiction.

Procedure  
on default  
of com-  
pliance

(4) If default is made in complying with any of the regulations, the Department may direct that what is omitted to be done shall be done at the expense of the person in default and, if the default is the failure to employ a duly qualified medical

practitioner as provided by clause *d* of subsection 1, the employing person is liable to pay the reasonable expenses incurred by any employee for medical attendance and medicines, and for his maintenance during his illness.

(5) Where any regulation has been made by the Minister with the approval of the Lieutenant Governor in Council under this section relating to territory without municipal organization, the regulation may provide for the imposing of fines for the contravention of any regulation made under this section and every such fine is recoverable under *The Summary Convictions Act* before a magistrate or two justices of the peace. R.S.O. 1950, c. 306, s. 134 (2-5). Penalties for breaches of regulations  
R.S.O. 1960, c. 387

**126.**—(1) Where an employer of labour mentioned in section 125, Medical and surgical contracts and schemes and deduction from wages

- (a) has entered into a medical contract for the employment of a duly qualified medical practitioner to undertake the medical and surgical care and treatment of his employees; or
- (b) has established a scheme or entered into an arrangement for the medical and surgical care and treatment of his employees,

under which the employer is responsible for the provision of the medical and surgical care and treatment for a period not exceeding thirty days in respect of each illness or disability, the employer may, with the approval of the Minister, deduct the amount prescribed by the regulations, but not exceeding \$1.50 per month, from the wages of each employee.

(2) Where an employer of labour mentioned in section 125 has established a scheme or entered into an arrangement referred to in subclause iii of clause *e* of subsection 1 of section 125, he may deduct monthly the amount prescribed as the premium rate payable by a single person by the regulations under *The Hospital Services Commission Act* from the wages of each employee entitled to the care and treatment under the scheme or arrangement. Hospital schemes for non-resident employees and deduction from wages  
R.S.O. 1960, c. 176

(3) Any scheme or arrangement referred to in subsection 2 shall provide hospital care and treatment so long as it is medically necessary for a period not exceeding ninety days whether the employee is hospitalized in Ontario or in another province or territory of Canada. 1959, c. 79, s. 4. Extent of hospital scheme

**127.** Every constable is *ex officio* a sanitary inspector for the locality for which he is appointed. R.S.O. 1950, c. 306, s. 137. Constables to be *ex officio* sanitary inspectors

Superintendent and officers in Algonquin Park

**128.** The Superintendent of the Algonquin Park is *ex officio* a medical officer of health for the Park and for the territory surrounding it for the distance of one mile therefrom or from any part thereof, and all the park rangers, whether employed temporarily or otherwise, are *ex officio* sanitary inspectors under this Act for the Park and such territory. R.S.O. 1950, c. 306, s. 138.

Local officers of health specially appointed

**129.** The Lieutenant Governor in Council may appoint medical officers of health and every such officer, in the locality for which he is appointed, has all the powers and shall perform all the duties by this Act or any other Act conferred or imposed upon medical officers of health or local boards of health, and shall also perform such other duties as the Lieutenant Governor in Council directs. R.S.O. 1950, c. 306, s. 139.

Sanitary inspectors

**130.** The Minister may, with the approval of the Lieutenant Governor in Council, appoint in any of the unorganized districts one or more sanitary inspectors, who possess, in addition to the powers conferred upon sanitary inspectors by this Act, all the powers conferred upon local boards of health by section 26. R.S.O. 1950, c. 306, s. 140.

Salaries

**131.** The medical officer of health and the sanitary inspectors shall be paid such salary or other remuneration as is determined by the Lieutenant Governor in Council out of the appropriation made by the Legislature for the purposes of the Department. R.S.O. 1950, c. 306, s. 141.

#### EXPENSES OF ENFORCEMENT OF ACT

Expenses payable in first instance by Province

**132.**—(1) The expenses incurred by the Department in the enforcement of this or any other Act or of the regulations are payable in the first instance by the Treasurer of Ontario out of any money appropriated by the Legislature for the expenses of the Department and in such manner and upon such certificate and after such audit as the regulations prescribe, notwithstanding anything in *The Audit Act* or any other Act to the contrary.

R.S.O. 1960, C. 27

Payment on certificate of proper officer

(2) Whenever an account is certified by the officer or officers designated in the regulations to be properly payable out of such appropriation, such certificate is final and the Provincial Auditor shall thereupon direct the issue of a cheque in payment of the account. R.S.O. 1950, c. 306, s. 142.

#### PROCEEDINGS NOT TO BE QUASHED FOR WANT OF FORM, OR REMOVED INTO SUPREME COURT

Quashing or removal of proceedings

**133.** No order or other proceeding, matter or thing, done or transacted in or relating to the execution of this Act, shall

be vacated, quashed or set aside for want of form, or be removed or removable by *certiorari* or otherwise into the Supreme Court. R.S.O. 1950, c. 306, s. 143.

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## SCHEDULE A

(Section 52 (2) )

### PUBLIC HEALTH NOTICE

Take notice that, by virtue of *The Public Health Act* and the regulations made thereunder, possession has been taken (or obtained, as the case may be) of the following lands (or buildings, as the case may be), namely,

(Reasonable Description)

and further take notice that such land (or building) will be occupied and used for the purposes of the said Act or regulations from and after the date hereof for a period of.....or such other time as may, in the discretion of the undersigned, be necessary.

Dated, etc.

(Signature)

R.S.O. 1950, c. 306, Sched. A.

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## SCHEDULE B

(Sections 10 (6), 122)

### BY-LAW IN FORCE IN EVERY MUNICIPALITY UNTIL ALTERED BY THE MUNICIPAL COUNCIL

1. The medical officer of health shall assist and advise the local board of health and its officers in matters relating to public health, and superintend the enforcement and observance within the municipality of health by-laws or regulations, and of public health Acts, and of any other sanitary laws, and perform such other duties and lawful acts for the preservation of the public health as are, in his opinion, necessary, or as are required by the Department of Health for Ontario. He shall also present to the said board, before the 31st day of January in each year, a full report upon the sanitary condition of the municipality during the preceding calendar year. Duty of  
M.O.H.

2. The sanitary inspector, besides performing the duties imposed by this by-law, shall assist the medical officer of health, and perform such other duties as are from time to time assigned to him by the local board of health or the medical officer of health. Duty of  
sanitary  
inspector

3. The chairman of the local board of health shall, before the 15th day of February in each year, present to this council a report containing a detailed statement of the work of the board during the year, and the report of the sanitary condition of the municipality as rendered to the board by the medical officer of health. A copy of each such report shall be transmitted by the secretary to the Department. Chairman  
of board of  
health to  
report to  
council

Deposits  
endangering  
public  
health  
prohibited

4. No person shall within the municipality suffer the accumulation upon his premises, or deposit or permit the deposit upon any land belonging to him of anything that may endanger the public health, or deposit upon, on or into any street, square, lane, by-way, wharf, dock, slip, lake pond, bank, harbour, river, stream, sewer or water, any manure or other refuse, or vegetable or animal matter or other filth.

Duty of  
sanitary  
inspector  
as to lands,  
etc.

5. The sanitary inspector shall keep a vigilant supervision over all streets, lanes, by-ways, lots or premises upon which any such accumulation may be found, and at once notify the persons who own or occupy such lots or premises, or who either personally or through their employees have deposited such manure, refuse, matter or filth in any street, lane or by-way to cleanse the same and to remove what is found thereon. Such persons shall forthwith remove the same, and if the same be not removed within twenty-four hours after such notification, the inspector may prosecute the persons so offending, and he may also cause the same to be removed at the expense of the person or persons so offending. He shall also inspect at intervals, as directed by the local board of health or medical officer of health, all premises occupied by persons residing within the municipality, and shall report to the board every contravention of any of the provisions of this by-law or of any other regulation for the preservation of the public health, and shall also report every case of refusal to permit him to make such inspection.

Examination  
of premises  
by sanitary  
inspectors

6. Whenever it appears to the local board or to any of its officers that it is necessary for the preservation of the public health or for the abatement of anything dangerous or injurious to the public health, or whenever a notice signed by one or more inhabitant householders of the municipality is received stating the condition of any building in the municipality to be so filthy as to be dangerous to the public health or that upon any premises in the municipality there is any foul or offensive ditch, gutter, drain, privy, cesspool, ash-pit or cellar kept or constructed so as to be dangerous or injurious to the public health or that upon any such premises an accumulation of dung, manure, offal, filth, refuse, stagnant water or other matter or thing is kept so as to be dangerous or injurious to the public health, the sanitary inspector shall enter such building or premises for the purpose of examining the same, and if necessary he shall order the removal of such matter or thing. If the occupant or owner or his lawful agent or representative having charge or control of such building or premises, after having had twenty-four hours notice from any such officer to remove or abate such matter or thing, neglects or refuses to remove or abate the same, he is subject to the fines mentioned in section 29 of this by-law.

Notice to  
put premises  
in proper  
sanitary  
condition

7. If the local board is satisfied upon due examination that a cellar, room, tenement or building within the municipality, occupied as a dwelling place, has become by reason of the number of occupants, want of cleanliness, the existence therein of a communicable disease, or other cause, unfit for such purpose, or that it has become a nuisance, or in any way dangerous or injurious to the health of the occupants, or of the public, the board may give notice in writing to such occupants, or any of them, requiring the premises to be put in proper sanitary condition, or requiring the occupants to quit the premises within such time as the board deems reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, every person so offending is liable to the fines mentioned in section 29 of this by-law and the board may cause the premises to be properly cleansed at the expense of the owners or occupants or may remove the occupants forcibly and close up the premises, and the same shall not again be occupied as a dwelling place until put into proper sanitary condition.

Location of  
slaughter-  
house, etc.

8. No person shall at any time use any house, shop or out-house as a slaughter-house or as a place for slaughtering animals or fowl therein, unless such shop, house or out-house is distant not less than 200 yards from any dwelling house and not less than 50 yards from any public street.

Inspection  
of slaughter-  
houses

9. All slaughter-houses within the municipality are subject to inspection under the direction of the local board of health, and no person shall keep any slaughter-house unless the permission in writing of the board



for the keeping of such slaughter-house has been first obtained and remains unrevoked. Such permission shall be granted, after approval of such premises upon inspection, subject to the condition that the slaughter-house shall be so kept as to comply with the regulations of the Department respecting slaughter-houses, and upon such condition being broken the permission may be revoked by the board, and all animals to be slaughtered, and all fresh meat exposed for sale in the municipality are subject to like inspection.

10. All milch cows, cow stables and dairies, and all places in which milk is sold or kept for general use, and all cheese factories and creameries are subject to inspection under the direction of the board, and the proprietors shall obtain permission in writing from the board to keep any such dairy or other place in which milk is so sold or kept or to keep a cheese factory or creamery, and the same shall not be kept by any person without such permission, which shall be granted after approval of such premises upon inspection, subject to the condition that all such places are so kept and conducted that the milk will not contain any matter or thing liable to produce disease, either by reason of adulteration, contamination with sewage, absorption of disease germs, infection of cows, or any other cause, and upon such condition being broken, such permission may be revoked by the board.

Inspection of cow stables, cheese factories and creameries

11. No person shall offer for sale within the municipality, as food, any diseased animal, or any meat, fish, fruit, vegetables, milk or other article of food which, by reason of disease, adulteration, impurity or other cause, is unfit for use.

Sale of diseased food

12. The owner of every house within the municipality shall provide for the occupants of the house a sufficient supply of water for drinking and sanitary purposes, and if any occupant of the house is not satisfied with the wholesomeness or sufficiency of such supply, he may apply to the local board of health to determine as to the same. If the supply is sufficient and wholesome, the expense incident to such determination shall be paid by such occupant, and if not, by the owner, and in either case such expense is recoverable in the same manner as municipal taxes.

Supply of drinking water

13. If the local board of health or the medical officer of health certifies that any well should be filled in or otherwise treated, such well shall be dealt with accordingly by the owner or occupant of the premises. Pending compliance with the order of the local board of health or the local medical officer of health, the local medical officer of health shall take such measures as in his judgment may be necessary to prevent the use of water from such well. No well shall be used as a privy, privy-vault or cesspool.

Wells to be treated

14. No privy-vault, cesspool, septic tank or reservoir into which a privy, water-closet, stable or sink is drained shall be established until the approval in writing of the medical officer of health has been obtained.

Establishment of privy-vaults, etc.

15. Section 14 of this by-law does not apply to privies or closets with a water-tight container above the surface of the ground, but sufficient dry earth, wood ashes, coal ashes or other material to absorb all fluids of the deposit shall be thrown upon the contents of such privies daily, and the contents covered completely with chloride of lime once each week. The contents when removed shall be disposed of in a sanitary manner to the satisfaction of the medical officer of health or the local sanitary inspector.

Time deposits to be removed

16. If the exigencies or circumstances of the municipality require that privy-vaults, cesspools and reservoirs be allowed in accordance with section 14 of this by-law, they shall be cleaned out or disinfected, or both, on the order of the medical officer of health or the local board of health.

Cleaning out and disinfecting privy-vaults, etc.

17. Within the limits of the municipality no night-soil or contents of any cesspool, septic tank or reservoir shall be removed, unless the removal is by an odourless process.

Deodorization before removal

18. The owner of every house, apartment and place of business within the municipality shall provide for the occupants, employees and customers adequate sanitary closets and toilet accommodation.

Supplying toilet accommodation

Removal of  
decayed  
animal or  
vegetable  
matter

19. All putrid and decaying animal or vegetable matter shall be removed from all cellars, buildings, out-buildings and yards on or before the 1st day of May in each year.

Removal of  
garbage

20. Every householder and every hotel and restaurant-keeper or other person shall dispose of all garbage, for the disposal of which he is responsible, either by burning it or by placing it in a properly covered receptacle, the contents of which shall be removed at least twice in every week.

Restaurants  
to have  
wash rooms,  
etc.

21. All restaurants or eating houses operated in the municipality shall have wash rooms and toilets, one for males and one for females, for the accommodation of the public.

Swine

22. Swine shall not be kept within the municipality except in pens with floors kept free from standing water and regularly cleansed and disinfected and distant at least 100 feet from any dwelling house, schoolhouse or church.

Livery  
stables

23. The keeper of every livery or other stable shall keep his stable and stable-yard clean, and shall not permit more than two wagon-loads of manure to accumulate in or near his stable at any one time, and shall at all times keep such manure in a proper covered receptacle.

Soil of  
house sites  
to be dis-  
infected

24. No house shall be built upon any site, the soil of which has been made up of any refuse, unless the soil has been removed from the site and the site disinfected, or unless the soil has been covered with a layer of charcoal or ashes or covered with a layer of concrete at least six inches thick and of such additional thickness as may be requisite under the circumstances to prevent the escape of gases into such proposed house.

Forms

25. The medical officer of health or the secretary of the local board of health shall provide each legally qualified medical practitioner practising within the municipality with blank forms on which he shall report cases of communicable disease to the medical officer of health, officer or secretary, and, also, with other blank forms on which to report death or recovery from any such disease.

Idem

26. All such forms shall be printed, gummed and folded so that they may be readily sealed without the use of an envelope, and shall call for the following information:

*Report of Communicable Disease.*

Given name and surname of patient:

Age of patient:

Locality (*giving street, number of house or lot*) where patient is:

Name of disease:

Name of school attended by children from that house:

Measures employed for isolation and disinfection:

.....  
(*Signature of physician*)

*Report of Death or Recovery from Infectious Disease.*

Given name and surname of patient:

Locality (*giving street, number of house or lot*) where patient is:

Name of disease:

How long sick:

Whether dead or recovered:

Means of disinfection employed, and when employed:

.....  
(*Signature of physician*)

Placarding

27. The medical officer of health, within six hours after he has received notice of the existence in any house of any communicable disease or the presence of any communicable disease contacts in respect of which it is his duty to do so, shall affix or cause to be affixed near the entrance of such house, in plain view of the public, a card at least twelve inches wide and nine inches long, stating that such premises are under quarantine on account of such disease and the penalty for the affixing or removal

of such card without the permission of the medical officer of health, and no person shall affix or remove any such card without his permission.

28. No animal suffering from any communicable disease shall be brought <sup>Animals</sup> or kept within the municipality, except by permission of the medical <sup>affected</sup> officer of health.

29. Any person who contravenes section 4, 6, 7, 9, 11, 24, 27, or 28 of this <sup>Offences</sup> by-law shall for every offence incur a fine of not less than \$5 nor more than \$50; and any person who contravenes any other provision of this by-law shall for every offence incur a fine of not more than \$20; and such fines are recoverable under *The Summary Convictions Act*.

R.S.O. 1950, c. 306, Sched. B; 1960, c. 92, s. 4.

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## SCHEDULE C

(Sections 79, 80)

### MUNICIPALITIES

1. City of Brantford
2. Town of Brockville
3. Improvement District of Deep River
4. Town of Fort Erie
5. City of Oshawa
6. Town of Thorold
7. Township of Tisdale
8. City of Sudbury

1957, c. 97, s. 9.



## CHAPTER 322

**The Public Hospitals Act****1. In this Act,**Interpre-  
tation

- (a) "administrator" means the person who has for the time being the direct and actual superintendence and charge of a hospital;
- (b) "board" means the board of directors, governors, trustees, commission or other governing body or authority of a hospital;
- (c) "Commission" means the Hospital Services Commission of Ontario;
- (d) "Department" means the Department of Health;
- (e) "dependant" means a patient the charges for whose treatment some other person is liable in law;
- (f) "hospital" means any institution, building or other premises or place established for the treatment of persons afflicted with or suffering from sickness, disease or injury, or for the treatment of convalescent or chronically ill persons that is approved under this Act as a public hospital;
- (g) "inspector" means an officer of the Commission or of the Department designated under this Act as an inspector;
- (h) "Minister" means the Minister of Health;
- (i) "municipality" means a city, separated town or county, except that in a territorial district it means a city, town, village, township or improvement district;
- (j) "patient" means a person received and lodged in a hospital for the purpose of treatment;
- (k) "provincial aid" means any sum paid to a hospital under this Act or under *The Hospital Services Commission Act*; R.S.O. 1960,  
c. 176
- (l) "regulations" means the regulations made under this Act;

R.S.O. 1960,  
c. 395

- (m) "resident" means actually resident in a municipality for a period of three months within the six months next prior to admission to a hospital;
- (n) "superintendent" has the same meaning as administrator;
- (o) "territorial district" means any of the territorial districts set forth in *The Territorial Division Act*;
- (p) "treatment" means the maintenance, observation, medical care and supervision and skilled nursing care of a patient and, if dental service is made available in a hospital by its board, includes the dental care and supervision of the patient;
- (q) "unorganized territory" means those parts of Ontario that are without municipal organization, including Indian reservations and provincial parks, but not including Federal property of Canada used for the purposes of national defence installations, camps or stations. 1957, c. 98, s. 1; 1959, c. 80, s. 1 (1-3).

Sanatoria  
and private  
hospitals  
not affected  
R.S.O. 1960,  
c. 359, 305

2. Nothing in this Act in any way relates to or affects a sanatorium under *The Sanatoria for Consumptives Act* or a private hospital under *The Private Hospitals Act*. 1957, c. 98, s. 2.

Adminis-  
tration and  
enforcement

3. The Commission shall administer and enforce this Act and the regulations. 1957, c. 98, s. 3.

Hospitals  
aided in  
1955  
approved  
R.S.O. 1950,  
c. 307

4.—(1) The several institutions that under *The Public Hospitals Act*, being chapter 307 of the Revised Statutes of Ontario, 1950, as hospitals received provincial aid for the year 1955 shall for the purposes of this Act and the regulations be deemed to be hospitals approved under this Act.

New  
hospitals  
to be  
approved  
R.S.O. 1960,  
c. 71

(2) No application to incorporate a hospital under *The Corporations Act*, or under a private Act shall be proceeded with until it has first received the approval of the Commission.

Hospitals  
not to  
operate  
without  
approval

(3) No institution, building or other premises or place shall be operated or used for the purposes of a hospital unless it has received the approval of the Lieutenant Governor in Council upon the recommendation of the Commission to the Minister.

Additions  
to be  
approved

(4) No additional building or facilities shall be added to a hospital until the plans therefor have been approved by the Commission.

Sale, etc.,  
to be  
approved

(5) No building or other premises or place or any part thereof acquired or used for the purposes of a hospital shall be

sold, leased, mortgaged or otherwise disposed of without the approval of the Commission.

(6) Any approval given or deemed to have been given under this Act in respect of a hospital may be suspended by the Minister on the recommendation of the Commission, or revoked by the Lieutenant Governor in Council. 1957, c. 98, s. 4. Suspension or revocation of approval

5. The Commission may pay provincial aid to hospitals in such amounts, in such manner and at such times as the regulations prescribe. 1957, c. 98, s. 5. Grants to hospitals

6. Every hospital has power to carry on its undertaking as may be authorized by any general or special Act under which it was created, established, incorporated or empowered so to do, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. 1957, c. 98, s. 6. Hospital powers and their exercise

7. The board of a hospital or a corporation incorporated for the purpose of establishing a hospital may pass by-laws for expropriating any land that may be requisite for or advantageous to any of its purposes, and in that behalf may exercise the powers of expropriation conferred on a municipality under *The Municipal Act*, the provisions of which relating thereto apply *mutatis mutandis* to and govern the exercise of such powers so far as they are applicable or necessary thereto, and the superintendent in such case shall exercise the powers and perform the duties that under that Act are to be exercised and performed by the clerk of the municipality. 1957, c. 98, s. 7. Expropriation powers  
R.S.O. 1960, c. 249

8.—(1) A hospital shall pass by-laws as prescribed by the regulations and submit them to the Commission. By-laws

(2) A hospital shall amend or revise its by-laws and submit them to the Commission after receiving notice to do so as prescribed by the regulations. Idem

(3) No by-law or amendment to or revision of a by-law has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation to the Minister of the Commission. 1957, c. 98, s. 8. Idem

(4) Notwithstanding *The Corporations Act*, a hospital may provide by by-law for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least four directors shall retire from office each year. Rotation of Directors  
R.S.O. 1960, c. 71

Special  
directors

(5) Notwithstanding *The Corporations Act*, a hospital may provide by by-law for the appointment by its board, in recognition of contributions or of long or special services to the hospital deemed worthy of such appointment, of life directors, term directors and honorary directors.

Idem

(6) A life director may attend meetings of the board during his lifetime and vote in person but not by proxy thereat, and the number of life directors at any time shall not exceed the number of elected and *ex officio* directors.

Idem

(7) A term director may attend meetings of the board for a term not exceeding ten years as specified in the by-law and vote in person but not by proxy thereat.

Idem

(8) An honorary director may attend meetings of the board and may act in an advisory capacity without the right to vote or may vote in person but not by proxy as determined by the by-law.

Idem

(9) The by-law may provide for the appointment of members or retired members of the medical, dental, nursing or administrative staffs of the hospital as honorary directors of the hospital.

Idem

(10) The number of honorary directors with the right to vote at board meetings plus the number of term directors at any time shall not exceed the number of elected and *ex officio* directors. 1959, c. 80, s. 2.

Management  
committee  
R.S.O. 1960,  
c. 71

**9.** Notwithstanding *The Corporations Act*, no hospital by-law authorizing the board to elect a management committee and to delegate to the management committee any powers of the board requires to be confirmed at a general meeting of the members of the hospital corporation. 1957, c. 98, s. 9.

No voting  
by proxy

**10.** No member of a hospital corporation shall vote by proxy at any meeting of the corporation. 1957, c. 98, s. 10.

Notice of  
hospital  
meetings

**11.—**(1) Notwithstanding *The Corporations Act*, it is not necessary to send written notice of any general or special meeting of the members of the hospital corporation to each member of the hospital corporation.

Idem

(2) It is sufficient notice of any general or special meeting of the members of the hospital corporation if notice is given by publication at least once a week for two successive weeks next preceding the meeting in a newspaper or newspapers circulated in the municipality or municipalities in which members of the hospital corporation reside as shown by their addresses on the records of the hospital. 1957, c. 98, s. 11.



**12.** The Minister, on the recommendation of the Com-<sup>Inspectors</sup>mission, may designate one or more officers of the Commission or of the Department to be inspectors for the purposes of this Act and the regulations. 1957, c. 98, s. 12.

**13.** No hospital for chronically ill persons shall admit as a patient an indigent person or the dependant of an indigent person until such person or dependant is certified in accordance with the regulations to be a chronically ill person. 1957, c. 98, s. 13. <sup>Admission of chronically ill persons</sup>

**14.—(1)** Except as may be otherwise provided in this Act, no hospital receiving provincial aid, other than a hospital for chronically ill persons or a hospital for convalescent persons, shall refuse to admit as a patient any person who from sickness, disease or injury or otherwise is in need of active treatment. <sup>General hospitals to admit sick persons</sup>

(2) Except as may be otherwise provided in this Act, no hospital for convalescent persons receiving provincial aid shall be required to admit as a patient a chronically ill person or a person who is in need of active treatment, and no hospital for convalescent persons receiving such aid shall refuse to admit as a patient any convalescent person referred to it from an active treatment hospital or by a legally qualified medical practitioner in accordance with the regulations. <sup>Hospitals for convalescent persons</sup>

(3) Except as may be otherwise provided in this Act, no hospital for chronically ill persons receiving provincial aid shall be required to admit as a patient a convalescent person or a person who is in need of active treatment, and no hospital for chronically ill persons receiving such aid shall refuse to admit as a patient any chronically ill person so certified and referred to it from an active treatment hospital in accordance with the regulations. 1959, c. 80, s. 3, *part*. <sup>Hospitals for chronically ill persons</sup>

**15.** Nothing in this Act requires any hospital to admit as a patient, <sup>Refusal of admission</sup>

- (a) any person who is not a resident or a dependant of a resident of Ontario, unless by refusal of admission life would thereby be endangered; or
- (b) any person who merely requires custodial care. 1959, c. 80, s. 3, *part*.

**16.—(1)** Where a patient in a hospital is an indigent person or a dependant of an indigent person and is declared by the attending physician not to require continued medical and skilled nursing care in a hospital but only requires custodial care, the municipality in which such person was resident <sup>Custodial care</sup>

at the time of admission is liable to the hospital for payment of the per diem rate established for that hospital by the Commission from the twenty-first day after the day on which notice that the patient is declared to require only custodial care has been sent by the superintendent of the hospital by registered mail to the clerk of the municipality until such patient leaves the hospital.

Payment  
of per  
diem rate

(2) A municipality that is liable to a hospital for the payment of the per diem rate under subsection 1 shall make such payment to the hospital at least quarterly.

Idem

(3) Where the person referred to in subsection 1 was a resident of unorganized territory, the Province shall pay the per diem rate in accordance with subsection 1.

Interpre-  
tation

(4) For the purposes of this section, "indigent person" means a person who is receiving assistance from a municipality or is declared eligible by the Department of Public Welfare to receive such assistance, or who has no place of abode to which he may go from the hospital. 1960, c. 93, s. 1.

Medical  
students'  
clinics

**17.** Subject to any existing agreement relating thereto, every hospital receiving provincial aid shall provide such facilities for medical students and dental students as the regulations require. 1957, c. 98, s. 17; 1959, c. 80, s. 4.

Municipal  
liability  
for  
indigents

**18.—**(1) Where a patient in a hospital is an indigent person or a dependant of an indigent person, the municipality in which he was resident at the time of admission is liable to the hospital for payment of the charges for his treatment at the following rates:

- (a) in the case of a hospital that in the regulations is classed as a Group A hospital, at the rate of \$9 per day;
- (b) in the case of a hospital that in the regulations is classed as a Group B hospital, at the rate of \$7.85 per day;
- (c) in the case of a hospital that in the regulations is classed as a Group C or Group D hospital, at the rate of \$6.75 per day; and
- (d) in the case of all other hospitals, at the rate of \$5.60 per day. 1957, c. 98, s. 18 (1); 1960, c. 93, s. 2.

Payments

(2) A municipality that is liable to a hospital for the payment of charges for treatment under subsection 1 shall make such payment to the hospital at least quarterly. 1957, c. 98, s. 18 (2).

**19.** A municipality may pay to a hospital the charges for treatment of a patient notwithstanding that the patient was not resident in the municipality at the time of admission to the hospital. 1957, c. 98, s. 19.

Liability  
for non-  
residents  
may be  
assumed

**20.—(1)** In the event of the death in a hospital of a patient who is an indigent person or the dependant of an indigent person, the municipality in which he was resident at the time of admission shall pay to the hospital any expenses of his burial that it incurs, not less than,

Burial  
expenses,  
by muni-  
cipality

(a) \$125 for the burial;

(b) the actual cost of opening and closing the grave; and

(c) a fee of \$10 for a religious service performed in connection with the burial.

(2) Where the deceased person referred to in subsection 1 was not resident in a municipality, the Commission may pay his burial expenses in accordance with subsection 1. 1957, c. 98, s. 20.

by Commis-  
sion

**21.—(1)** Upon admission to a hospital of a patient who is or is represented to be or becomes an indigent person or the dependant of an indigent person, the superintendent shall by registered letter notify the clerk of the municipality in which such indigent person is or is represented to be resident of such admission, giving such particulars as are ascertainable to enable the clerk to identify the indigent person.

Notice to  
municipality  
of admission  
of indigent  
to hospital

(2) Where a patient becomes an indigent after admission to a hospital, the superintendent shall notify the clerk of the municipality in accordance with subsection 1 when the indigency becomes known to the superintendent.

Indigency  
after  
admission

(3) Where the superintendent notifies the clerk of a county in accordance with subsection 1 or 2, he shall, at the same time and in the same manner notify the clerk of the local municipality in which such indigent person is or is represented to be resident. 1957, c. 98, s. 21.

Notice to  
clerk of  
local muni-  
cipality

**22.—(1)** Unless the clerk of a municipality within twenty days after the date of mailing such notice to him, by registered mail, notifies the superintendent from whom such notice was received that the patient referred to therein was not resident in the municipality at the time of admission as a patient or is not an indigent person or a dependant of an indigent person, such municipality is liable for the charges for treatment of such patient as provided in this Act.

Notice  
disputing  
liability

Information  
to be  
furnished

(2) The clerk of a municipality, when notifying a superintendent that a patient is not resident in the municipality or is not an indigent person or a dependant of an indigent person, shall furnish such information as he has ascertained with respect to such patient and his reason for refusing to acknowledge the patient as resident in the municipality or as an indigent person or a dependant of an indigent person. 1957, c. 98, s. 22.

Cases where  
residence  
not pre-  
sumed:

**23.** For the purpose of this Act, no patient shall be deemed to be resident in a municipality,

persons  
seeking  
medical aid

(a) by reason of having gone to the municipality for the purpose of seeking medical advice or treatment or seeking admission or treatment in a hospital in such municipality, but in such cases the patient shall for the purpose of this Act be deemed to be resident in that municipality in which he was resident at the time of going to the first-named municipality for the purpose of seeking such advice, treatment or admission; or

health  
seekers  
in the  
districts

(b) if the municipality is in a territorial district and the patient being infected or likely or suspected of being infected with tuberculosis has gone to such municipality principally for the purpose of health and within one year after going to such municipality is admitted as a patient in a hospital, but in such cases the patient shall for the purpose of this Act be deemed to be resident in that municipality in which he was resident at the time of going to a municipality in a territorial district; or

pupils

(c) if the patient has been living in the municipality by reason of being a pupil in any school, college, university, training school for nurses established under *The Nursing Act* or a predecessor thereof, or other seminary of learning therein; or

R.S.O. 1960,  
c. 265

inmates of  
institutions

(d) by reason of having been a patient or an inmate of a hospital, a private hospital licensed under *The Private Hospitals Act* or a predecessor thereof or *The Private Sanatoria Act*, an institution licensed by a municipality as a nursing home, a sanatorium, home for the aged, orphanage, children's shelter or child welfare institution, jail, reformatory, prison or other public institution in the municipality and otherwise was not resident therein, but in such cases the patient shall for the purpose of this Act be deemed to be resident in that municipality in which

R.S.O. 1960,  
cc. 305, 307

he was resident at the time he became such an inmate or patient; or

- (e) if the patient has been living in the municipality by reason of being engaged on active service as a member of the naval, military or air force of Canada, but in such cases the patient shall for the purpose of this Act be deemed to be resident in that municipality in which he was resident at the time of enlistment for service; or
- (f) by reason of having gone to the municipality during the period between the filing of application for admission and admission to a hospital, but in such case the patient shall for the purpose of this Act be deemed to be resident in that municipality in which he was resident at the time of going to the first-named municipality for the purpose of awaiting admission; or
- (g) if the patient has been discharged from a hospital and has been provided with accommodation in a municipality by and at the expense of some other municipality, but in such case the patient shall, for the purpose of this Act, be deemed to be resident in the municipality in which he was resident at the time he was provided with such accommodation in the first-named municipality. 1957, c. 98, s. 23.

**24.—**(1) The clerk of a county may require the clerk of any township, town, village or improvement district forming part of the county to furnish such particulars as are ascertainable in respect of the residence or indigence of any person whose case has been brought to the attention of the clerk of the county under section 21.

(2) The clerk of a township, town, village or improvement district, within ten days of receiving a notice sent to him pursuant to subsection 1, shall send the particulars requested to the clerk of the county by registered mail.

(3) Upon the failure of the clerk of a township, town, village or improvement district to comply with subsection 2, such township, town, village or improvement district is liable to the county for the charges for treatment of a patient in respect of whom the information is requested as provided for in this Act. 1957, c. 98, s. 24 (2-4).

**25.—**(1) A dependant of an indigent person for the purpose of this Act shall be deemed to be resident in that municipality in which such indigent person is resident, but, where such indigent person is not resident in any municipality, such

dependant shall be deemed to be resident in that municipality in which such dependant is resident.

Dependant  
of  
member  
of  
forces

(2) A dependant of a person who is engaged on active service as a member of the naval, military or air force of Canada shall be deemed to be resident in that municipality in which such dependant is resident. 1957, c. 98, s. 25.

Chronically  
ill persons  
in hospitals

**26.** Where a patient in a hospital, other than a hospital for chronically ill persons, for the charges for whose treatment a municipality is liable under this Act is certified in accordance with the regulations to be a chronically ill person, the hospital may require of the municipality liable that such patient be removed from the hospital within seven days after notice has been given by registered mail to the clerk thereof, and failing which removal the hospital is entitled to charge the municipality liable \$1.10 per day in addition to any other charges provided to be paid under this Act while such patient remains in the hospital. 1957, c. 98, s. 26; 1960, c. 93, s. 3.

Babies  
born in  
hospital

**27.—(1)** Where a baby is born in a hospital, it shall for the purpose of this Act be deemed to be a patient and, if it is the baby of an indigent person, shall be deemed to be resident in that municipality in which such indigent person is resident, and the municipality is liable for the treatment of the baby as the dependant of an indigent person at a rate of \$1 per day for a period not exceeding fourteen days after its birth. 1957, c. 98, s. 27 (1); 1960, c. 93, s. 4.

Liability  
for  
treatment  
after  
14 days

(2) Where a baby referred to in subsection 1 is kept in hospital for a period longer than fourteen days, the municipality is liable for the treatment of the baby after the fourteenth day as the dependant of an indigent person at the rates prescribed in section 18. 1957, c. 98, s. 27 (2).

Statements  
of account  
to be  
rendered

**28.** Where under this Act the charges for treatment of any patient or for burial expenses of a deceased patient are payable by a municipality, the hospital to which such patient was admitted shall from time to time render to the clerk of the municipality statements of account of any such charges with full particulars thereof, and if the amount of any such account is not paid within a reasonable time after it has been rendered it may be recovered as a debt in any court of competent jurisdiction. 1957, c. 98, s. 28.

Municipal  
right of  
recourse  
against  
patient

**29.** Upon the payment by a municipality of any account rendered to it by a hospital for treatment of a patient or on payment by it of any expenses of burial of a deceased patient, such municipality may recover from the patient, or, in the event of his decease, from his estate or personal representa-

tives, or, in the case of a dependant, from any person liable in law with respect to such dependant, the amount of the payment so made, and the same may be recovered as a debt in any court of competent jurisdiction. 1957, c. 98, s. 29.

(2) The right of a municipality under this section to *Idem* recover any payment made by it to a hospital for the treatment of a patient shall commence the day after the patient is discharged from the hospital and shall not include the right while the patient is in hospital to take all or part of the pension received by the patient under the *Old Age Security Act* (Canada) *R.S.C. 1952, c. 200* or received under that Act by the person whose dependant the patient is.

(3) The taking by a municipality of a conveyance of or *Idem* a security on land under a municipal by-law authorized by paragraph 36 of section 377 of *The Municipal Act* to recover *R.S.O. 1960, c. 249* any payment made by the municipality for the treatment of a patient is deemed to be recovery for the purposes of this section although the realization on the conveyance or security may occur more than one year after the discharge of the patient from the hospital.

(4) The right of a municipality under this section to *Limitation* recover any payment made by it to a hospital for the treatment of a patient shall cease one year after the discharge of the patient from the hospital. 1959, c. 80, s. 6.

**30.** Upon payment by a municipality to a hospital of any *Municipal right of recourse against proper municipality* account for treatment of a patient or upon payment of any expenses of burial of a deceased patient by reason of such patient having been assumed to be a resident in the municipality and it being ascertained that the patient was not resident therein but at the time of admission to the hospital was resident in another municipality in Ontario, the municipality that made the payment may recover the amount thereof as a debt from the municipality in which the patient was resident, and upon payment by that municipality it is entitled to exercise the rights of recovery conferred under section 29. 1957, c. 98, s. 30.

**31.** Any person who is an Indian within the meaning of *Indians* the *Indian Act* (Canada) shall be deemed for the purpose of this Act not to have established residence in unorganized *1952-53, c. 41 (Can.)* territory. 1957, c. 98, s. 31.

**32.** Every person who contravenes or is a party to the *Offence* contravention, directly or indirectly, of any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. 1957, c. 98, s. 32.

Limitation  
of action

**33.** Any action against a hospital or any nurse or person employed therein for damages for injury caused by negligence in the admission, care, treatment or discharge of a patient shall be brought within six months after the patient is discharged from or ceases to receive treatment at the hospital and not afterwards. 1957, c. 98, s. 33.

Interpre-  
tation

**34.**—(1) In this section, “municipality” means county, city, town, village, township or improvement district.

Hospital  
officer,  
appointment

(2) The council of a municipality either alone or in conjunction with the council or councils of another municipality or other municipalities may by by-law appoint a duly qualified medical practitioner to be the hospital officer for such municipality, and the by-law may provide for the term and conditions of his appointment and the payment of remuneration.

authority

(3) A hospital officer so appointed may visit any hospital and secure from the superintendent information relating to any indigent patient in the hospital who is resident in any municipality for which the hospital officer is appointed.

powers re  
indigent  
patients

(4) A hospital officer may exercise the powers conferred in subsection 3 in respect of indigent patients from municipalities other than the municipality for which he is appointed, but only at the request of the hospital officer for the municipality in which such patient is resident.

report re  
indigent  
patients

(5) If any hospital officer is of the opinion that it is unnecessary for any indigent patient to remain in the hospital, he shall make a report of his findings and recommendations to the superintendent of the hospital and to the Commission.

Enactment  
of by-law

(6) No municipality shall enact a by-law under this section until thirty days after notice of intention thereof has been given to the Commission. 1957, c. 98, s. 34.

Regulations  
for hospitals

**35.**—(1) Upon the recommendation of the Commission to the Minister, the Lieutenant Governor in Council may make such regulations with respect to hospitals as are deemed necessary for,

- (a) their creation, establishment, construction, alteration, equipment, safety, maintenance and repairs;
- (b) their classifications, grades and standards;
- (c) their inspection, control, government, management, conduct, operation and use;
- (d) prescribing the matters upon which by-laws are to be passed by hospitals;
- (e) prescribing the powers and duties of inspectors;



- (f) providing that certain persons shall be by virtue of their office members of the board in addition to the members of the board appointed or elected in accordance with the authority whereby the hospital is established;
- (g) their administrators, staffs, officers, servants and employees and the powers and duties thereof;
- (h) providing for the certification of chronically ill persons and the method of referring such persons to hospitals for chronically ill persons;
- (i) providing for the method of referring convalescent persons to hospitals for convalescent persons;
- (j) the admission, treatment, care, conduct, discipline and discharge of patients or any class of patients;
- (k) the classification of patients and the lengths of stay of and the rates and charges for patients;
- (l) prescribing the facilities that hospitals shall provide for medical students and dental students;
- (m) the records, books, accounting systems, audits, reports and returns to be made and kept by hospitals;
- (n) the reports and returns to be submitted to the Commission by hospitals;
- (o) prescribing the classes of grants by way of provincial aid and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;
- (p) defining words and terms used in the Act for the purposes of the Act and the regulations;
- (q) all matters affecting hospitals. 1957, c. 98, s. 35 (1); 1959, c. 80, s. 7 (1-3).

(2) On the recommendation of the Commission, the Minister <sup>Idem</sup> may from time to time declare all or any of the regulations to be in force with respect to all hospitals or any one or more hospitals or classes thereof and for such period or periods of time as the Minister deems expedient. 1957, c. 98, s. 35 (2).

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## CHAPTER 323

## The Public Inquiries Act

1. Whenever the Lieutenant Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein and such inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct such inquiry and may confer the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as the commissioner or commissioners deem requisite for the full investigation of the matters into which he or they are appointed to examine. R.S.O. 1950, c. 308, s. 1.

Appoint-  
ment of  
commission

2. A commissioner has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1950, c. 308, s. 2.

Compelling  
attendance  
of witnesses

3.—(1) A commission may be issued directing an inquiry into matters connected with elections to the Assembly and any alleged attempt to corrupt a candidate at any such election or a member of the Assembly after his election.

Inquiry as  
to election

(2) Such inquiry may be directed notwithstanding that the person charged may be liable to criminal prosecution or that criminal proceedings have been commenced or concluded.

Not affected  
by liability  
to prosecution

(3) A commission shall not issue under this section nor shall an inquiry proceed under a commission already issued where a petition has been presented under *The Controverted Elections Act* with respect to the election until the proceedings thereon have terminated, nor shall such a commission issue during a session of the Legislature without the assent of the Assembly.

Not to  
proceed  
when  
petition  
pending  
or during  
session  
R.S.O. 1960,  
c. 65

(4) The Assembly, upon the evidence taken under the commission being submitted, may take, under *The Legislative Assembly Act* or under any other authority belonging to the Assembly, such action as is deemed proper as fully as if such evidence had been given at the bar of the Assembly.

Power to  
take action  
on evidence  
R.S.O. 1960,  
c. 208

Circumstances under which no action to be taken

(5) No such action shall be taken against any person so charged founded upon evidence given by any witness unless it appears that he had an opportunity of appearing before the commissioner and cross-examining the witness either at the time that he was examined in chief or subsequently and that he had also an opportunity of calling witnesses on his own behalf. R.S.O. 1950, c. 308, s. 3.

Revoking or changing commission

4. The Lieutenant Governor in Council may revoke, modify or enlarge the scope of any commission. R.S.O. 1950, c. 308, s. 4.

Stated case

5.—(1) Where the validity of the commission or the jurisdiction of a commissioner or the validity of any decision, order, direction or other act of a commissioner is called into question by any person affected, the commissioner, upon the request of such person, shall state a case in writing to the Court of Appeal setting forth the material facts and the decision of the court thereon is final and binding.

Order directing stated case

(2) If the commissioner refuses to state a case, any person affected may apply to the Court of Appeal for an order directing the commissioner to state a case.

Proceedings stayed until case determined

(3) Pending the decision of the stated case, no further proceedings shall be taken by the commissioner.

Action injunction, etc., not to lie against commissioner

(4) No action shall be brought or other proceeding taken with respect to anything done or sought to be done by the commissioner or to restrain or interfere with or otherwise direct or affect the conduct of any such commissioner. R.S.O. 1950, c. 308, s. 5.

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## CHAPTER 324

**The Public Lands Act****1. In this Act,**Inter-  
pre-  
tation

- (a) "Department" means the Department of Lands and Forests;
- (b) "mines and minerals" includes gold, silver, copper, lead, iron and other mines and minerals and quarries and beds of stone, marble or gypsum;
- (c) "Minister" means the Minister of Lands and Forests;
- (d) "public lands" includes lands heretofore designated as Crown lands, school lands and clergy lands;
- (e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 309, s. 1.

## PART I

## DEPARTMENT OF LANDS AND FORESTS

**2.** The Department of Lands and Forests shall be presided over by the Minister and he shall have charge of the management, sale and disposition of the public lands and forests. R.S.O. 1950, c. 309, s. 2.

Function  
of Minister**3. There shall be,**Deputy  
Ministers

- (a) A Deputy Minister of Lands and Forests who shall be appointed by the Lieutenant Governor in Council, who shall have charge of the administration of the Department and such other duties as are assigned to him by the Lieutenant Governor in Council or the Minister; and
- (b) a Deputy Minister of Forestry who shall be appointed by the Lieutenant Governor in Council, who shall have charge of matters respecting reforestation, forest protection, forest research and investigation and such other duties as are assigned to him by the Lieutenant Governor in Council or the Minister. R.S.O. 1950, c. 309, s. 3.

Surveyor  
General

4. There shall be an officer of the Department known as the Surveyor General who shall be appointed by the Lieutenant Governor in Council, who shall perform such duties in connection with the surveying of lands, investigation of water powers, engineering, inspection, research and such other matters as are assigned to him by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 309, s. 4.

Advisory  
Committee

5.—(1) There shall be a committee to be known as the Advisory Committee consisting of a chairman and such member or members as the Minister deems appropriate.

Appoint-  
ment

(2) Subject to the approval of the Lieutenant Governor in Council, the chairman and members of the Committee shall be appointed by the Minister for such term as the Minister deems proper.

Sub-  
committees

(3) The Committee may, with the approval of the Minister, appoint such sub-committees composed of such members of the Committee and such other persons as it deems appropriate.

Remunera-  
tion, etc.

(4) The members of the Committee and any sub-committee shall be paid such remuneration and expenses as may be determined by the Lieutenant Governor in Council.

Meetings

(5) The Committee shall meet monthly or otherwise as the Minister may determine.

Duty

(6) It is the duty of the Committee to advise the Minister upon policy on such matters as the Minister may direct, regard being had to the conservation, development and utilization of the renewable natural resources of Ontario. 1959, c. 81, s. 1.

Power  
to make  
regulations

6. The Lieutenant Governor in Council may make such regulations as he deems necessary to carry out the provisions of this Act, or to meet cases for which no provision is made by this Act. R.S.O. 1950, c. 309, s. 5 (1).

Appointment  
of officers  
and agents

7. The Lieutenant Governor in Council may appoint such officers and agents to carry out this Act and the regulations as he deems necessary. R.S.O. 1950, c. 309, s. 6.

Exercise  
of powers

8. The powers conferred on the Minister by this Act shall be exercised subject to the regulations and they may also be exercised by the Lieutenant Governor in Council. R.S.O. 1950, c. 309, s. 7.

Annual  
report

9.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

(2) The Provincial Secretary shall submit the report to <sup>Tabling</sup> the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 309, s. 8.

**10.**—(1) The Minister may cause any public lands to <sup>Surveys and annulments</sup> be surveyed or subdivided and he may annul in whole or in part any survey or subdivision made under this section or a predecessor of this section.

(2) Where a plan of survey or subdivision made under <sup>Amended plans</sup> subsection 1 or a predecessor of subsection 1 has been or is lodged with the proper master of titles or registrar of deeds and the Minister annuls in whole or in part the survey or subdivision, the Minister shall cause an amended plan to be lodged with such master of titles or registrar of deeds.

(3) Where letters patent have been issued for any land <sup>Substitution of letters patent</sup> that is affected by an annulment under subsection 1, the Minister shall cause such patent to be cancelled and a patent containing a revised description of the land to be issued in its stead, and the patent so issued shall relate back to the date of the one so cancelled and has the same effect as if issued on the date of such cancelled patent. 1956, c. 72, s. 1.

**11.**—(1) Where in any instrument, including a Crown <sup>Altering and amending plan</sup> grant, there is a description of a township lot or any part of a township lot and by reason of an error in the original survey of the boundaries of any lake, river or stream the whole or part of which is situate in or flows through the township or by reason of no survey of such boundaries having been made in the original survey of the township the boundaries of such lot or part do not approximate the boundaries of such lot or part as established by a resurvey of the township or any part thereof, the Minister may cause an altering and amending plan to be prepared by an Ontario land surveyor.

(2) Every altering and amending plan shall conform as <sup>Manner of preparation</sup> nearly as may be to a plan of subdivision under section 153 of *The Land Titles Act* or section 86 of *The Registry Act*, as the <sup>R.S.O. 1960, cc. 204, 348</sup> case may be, except that it shall be signed by the Surveyor General or his deputy on behalf of all persons having an interest in the land shown thereon.

(3) When an altering and amending plan has been prepared, <sup>Hearing, etc.</sup> the Minister shall send a print of the plan by registered mail to each person appearing to have an interest therein, whereupon the provisions of section 48 of *The Surveys Act* with <sup>R.S.O. 1960, c. 390</sup> respect to notice, hearing and confirmation apply *mutatis mutandis*.

Boundaries  
confirmed

(4) An altering and amending plan, when confirmed by the Minister pursuant to subsection 3, shall be registered in the proper registry or land titles office, whereupon the boundaries of the lots or blocks shown thereon shall be deemed to be the true boundaries of such lots or blocks.

Procedure  
in land  
titles office

(5) Where an altering and amending plan has been registered in the proper land titles office, the registers for the parcels affected shall be amended accordingly.

Procedure  
in registry  
office

(6) Where an altering and amending plan has been registered in the proper registry office, the registrar shall keep an index of the land described and designated by any number or letter on the plan by the name by which it is so designated and every instrument affecting the land or any part thereof, executed after the plan is registered, shall conform and refer thereto, otherwise it shall not be registered except in cases provided for by section 90 of *The Registry Act*.

R.S.O. 1960,  
c. 348

Costs and  
expenses

(7) The costs and expenses of and incidental to the preparation and registration of an altering and amending plan shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 99, s. 1.

Where  
survey  
required

**12.—**(1) Where an application to purchase public lands that are open for sale but are not surveyed is received, the Surveyor General may require the applicant to have a survey made and to bear the cost thereof, or he may fix the survey fee to be paid by the applicant, and upon payment of the survey fee the Surveyor General shall cause the lands to be surveyed.

Idem

(2) The requirements of subsection 1 are additional to the payment of the sale price of the lands. 1958, c. 86, s. 2.

#### GRANTS, SALES, LICENCES OF OCCUPATION, ETC.

Appropriation for  
certain  
public  
purposes and  
free grants  
thereof  
made

**13.—**(1) The Lieutenant Governor in Council may set apart and appropriate such of the public lands as he deems expedient for roads and for the sites of wharves or piers, market places, jails, court houses, public parks or gardens, town halls, hospitals, places of public worship, burying grounds, schools, and for purposes of agricultural exhibitions, and for other like public purposes, and for model or industrial farms; and may make free grants for such purposes, and the trusts and uses to which they are to be subject shall be expressed in the letters patent; but no grants shall be for more than 10 acres in any one case, and for any one of such purposes, except for a model or industrial farm, in which case the grant shall not be for more than 100 acres.



(2) The Lieutenant Governor in Council at any time before the issue of the letters patent may revoke any such appropriation. R.S.O. 1950, c. 309, s. 13. <sup>Revocation</sup>

**14.**—(1) The Lieutenant Governor in Council may set apart areas of public lands for any purpose that will benefit research in, and the management, utilization and administration of, the public lands and forests. R.S.O. 1950, c. 309, s. 14. <sup>Public lands set apart for research</sup>

(2) The whole or part of any area of public lands covered with water that is set apart for the purposes of a harbour under subsection 1 shall border on public lands not covered with water and such lands or such part thereof as is deemed proper shall be set apart concurrently with the public lands covered with water. 1960, c. 94, s. 1. <sup>Small boat anchorages</sup>

**15.**—(1) In his management of the public lands for recreational use, the Minister may from time to time define areas on maps or plans, and he may designate such areas as zones, and he may classify any such zone as "Open", "Deferred", "Wilderness", or otherwise as he deems proper. <sup>Zoning public lands for recreational use</sup>

(2) The Minister may designate areas in which the public lands are not open for disposition as summer resort locations until a plan of subdivision of the lands to be disposed of is registered under *The Land Titles Act* or *The Registry Act*. 1958, c. 86, s. 3. <sup>Plan of subdivision may be required</sup> <sup>R.S.O. 1960, cc. 204, 348</sup>

**16.**—(1) The Minister may designate any area in territory without municipal organization as a restricted area, and he may issue permits for the erection of buildings or structures or the making of improvements on lands in any such area on such terms and conditions in any case as he deems proper. <sup>Restricted areas</sup>

(2) Except under the authority of a permit issued under this Act, no person shall erect any building or structure or make any improvement on any lands in any area in territory without municipal organization that is designated by the Minister as a restricted area. <sup>Permits</sup>

(3) Every person who erects a building or structure or makes any improvement on lands in an area designated by the Minister as a restricted area without a permit therefor and every person who contravenes any term or condition of a permit issued under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. <sup>Offences</sup>

(4) This section does not apply to the erection of buildings or structures or the making of improvements on lands for the purpose of the exploration or development of mines, minerals or mining rights. 1960, c. 94, s. 2. <sup>Exception, mines, etc.</sup>

Regulations  
re sale of  
public lands

**17.**—(1) The Lieutenant Governor in Council may make regulations prohibiting or regulating and controlling the sale of public lands to actual settlers for agricultural purposes or to purchasers of summer resort locations for private or commercial use or to purchasers of public lands for any other purpose or use and fixing the prices and terms and conditions of sale and of settlement.

Idem

(2) Any regulation made under subsection 1 may be made applicable to any part of Ontario and may for the purposes of subsection 1 define any term used therein. 1959, c. 81, s. 2 (1).

Sale by  
tender or  
auction

(3) The Minister may, whether or not the consideration has been fixed by the regulations, dispose of public lands by tender or by auction upon such terms and conditions as he deems proper. 1958, c. 86, s. 4; 1959, c. 81, s. 2 (2).

Reservation  
of trees and  
minerals

(4) In every sale or other disposition of public lands for summer resort locations there shall be reserved to the Crown all timber and trees standing, being or thereafter found growing thereon, and all mines and minerals thereon or thereunder, and the instrument of sale or other disposition shall so provide. 1953, c. 88, s. 4 (2).

Sale, etc.,  
of public  
lands not  
otherwise  
provided for

**18.** Where the sale or lease of any public lands is not otherwise provided for in this or any other Act or the regulations, the Minister may direct the sale or lease of any such public lands at such price or rental and upon such terms and conditions as he deems proper, but no such sale or lease shall be made of parcels of more than ten acres, and in the case of a sale at less than \$10 an acre and in the case of a lease at less than \$5 an acre per annum, without the approval of the Lieutenant Governor in Council. 1956, c. 72, s. 2.

Quit claim  
of public  
lands to  
person in  
possession

**19.** Where a person has been in actual possession of public lands by himself or through his predecessors for more than sixty years, the Minister may cause a quit claim to be issued to such person in respect of such lands at such price and upon such terms and conditions as he deems proper. 1956, c. 72, s. 3.

Land use  
conditions

**20.**—(1) Letters patent for land sold or leased under this Act may contain a condition that the land is to be used in a particular manner or a condition that the land is not to be used in a particular manner and every such condition shall be deemed to be annexed to the land.

Where  
condition  
violated

(2) Where land has been or is being used in violation of a condition in the letters patent, the Minister may apply by way of originating notice of motion to the judge of the county or district court of the county or district in which the land is

situate for an order forfeiting the land to the Crown and for possession of the land, and the judge, upon proof to his satisfaction that the land has been or is being used in violation of the condition, shall make an order declaring that, upon registration of the order under subsection 4, the land is forfeit to the Crown and requiring any person in possession of the land to deliver up possession of the land to the Minister or to any person authorized by the Minister to receive possession of it.

(3) An order made under subsection 2 has the same force <sup>Idem</sup> as a writ of possession and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

(4) A certified copy of an order made under subsection 2 <sup>Idem</sup> shall be registered in the proper registry or land titles office and, upon registration, the land is vested in the Crown and may be granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario. 1959, c. 81, s. 3, *part*.

**21.** Where land has been sold or leased under this Act and the letters patent therefor contain a condition that the land is to be used in a particular manner or a condition that the land is not to be used in a particular manner, the Minister may, upon such terms and conditions as he thinks proper, make an order releasing the land or any part thereof from the condition or any part thereof contained in the letters patent. 1959, c. 81, s. 3, *part*. <sup>Release of land use conditions</sup>

**22.—(1)** The Minister may issue under his hand and seal a licence of occupation to any person who has purchased, or is permitted to occupy, or is entrusted with the care or protection of any public lands or who has received or been located on any public lands as a free grant. <sup>Licences of occupation</sup>

(2) Such person or his assigns may take possession of and occupy the land for which the licence is issued, subject to the conditions of the licence, and may under it, unless it has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he could under letters patent from the Crown. <sup>Effect of licence of occupation</sup>

(3) The licence of occupation is *prima facie* evidence of the right to possession by such person and his assigns of the land, but has no force against a licence to cut pine trees existing at the time of its issue or where the pine trees are reserved to the Crown against a licence to cut such trees then existing or thereafter issued. R.S.O. 1950, c. 309, s. 16. <sup>As evidence</sup>

## Easements

**23.** The Minister may grant easements in or over public lands for any purpose. 1957, c. 99, s. 2.

## Minister to decide as to right to patent

**24.** The Minister has authority to determine all questions that arise as to the rights of persons claiming to be entitled to letters patent of land located or sold under this Act and his decision is final and conclusive. R.S.O. 1950, c. 309, s. 17.

## Cancellation of sale, etc., of land in case of fraud or error, etc.

**25.** If the Minister is satisfied that a purchaser, locatee or lessee of public lands, or any person claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, location or lease, or of the licence of occupation, he may cancel such sale, location, lease or licence, and resume the land and dispose of it as if the same had never been made, and upon such cancellation all moneys paid in respect of such sale, location or lease remain the property of the Crown and the improvements, if any, on the land are forfeited to the Crown. R.S.O. 1950, c. 309, s. 18; 1953, c. 88, s. 6.

## Mode of obtaining possession, if the settler refuses to deliver up land, or a trespasser is in possession

**26.—(1)** Where a purchaser, locatee, lessee or other person refuses or neglects to deliver up possession of any land after the revocation or cancellation of the sale, location, lease or licence of occupation thereof, or where a person is wrongfully in possession of public lands and refuses to vacate or abandon possession of the same, the Minister may apply to a judge of the county or district court of the county or district in which the land or any part of it is situate for an order for possession, and the judge, upon proof to his satisfaction that the right or title of such purchaser, locatee, lessee or other person to hold the land has been revoked or cancelled, or that the person in possession is wrongfully in possession of the land shall make an order requiring him to deliver up the land to the Minister, or to any person authorized by him to receive possession of it, or the Minister may by his warrant require such purchaser, locatee, lessee or person to deliver up the land to the person named in the warrant.

## Effect of order or warrant

(2) The order or warrant has the same force as a writ of possession, and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like manner as he would a writ of possession in an action for the recovery of land.

## Officer's right to demand assistance, etc.

(3) The sheriff, bailiff or other person executing the order or warrant may take with him all necessary assistance and has the right to demand such assistance in the same manner as a constable or other peace officer in the execution of his duty. R.S.O. 1950, c. 309, s. 19 (1-3).

## Removal of trespassers from public lands

(4) Where it appears to the Minister that the presence of a person who is wrongfully or without lawful authority in

possession of or occupying any public land is dangerous to the safety of any timber or other public property on such land or in its vicinity, and it is expedient for that or any other reason to remove him from such land, the Minister may by warrant authorize any member of the Ontario Provincial Police Force, forest ranger or other officer or person to remove him from such land and also to remove therefrom any building, structure or tent erected or used by him. R.S.O. 1950, c. 309, s. 19 (4), *amended*.

(5) If a person who has given up possession of or has been removed from any land under the authority of this section again returns to or enters upon it, the order or warrant is a sufficient authority to the officer or person named in it again to remove such person from the land, and the power of removal may be exercised under such order or warrant from time to time and as often as occasion requires.

(6) Every person who refuses to obey any such order or warrant, or who resists, obstructs or interferes with any person executing it, or who again returns to the land, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$100 and to imprisonment for a term of not more than six months. R.S.O. 1950, c. 309, s. 19 (5-6).

**27.—**(1) Any person who enters into possession of public lands without lawful authority and erects any building or structure or makes any improvements thereon is liable to a penalty of an amount equal to twice the market value of the public land so entered as determined by the Minister.

(2) A penalty imposed under subsection 1 is recoverable at the suit of the Minister in any court of competent jurisdiction.

(3) If a person fails to pay a penalty imposed upon him under subsection 1 and the Minister brings an action for the recovery of the penalty, it is the duty of the court,

- (a) to determine whether such person is liable to a penalty under subsection 1;
- (b) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister;
- (c) to give such judgment as it deems proper; and
- (d) to make such order as to costs or otherwise as it deems proper.

Saving

(4) Nothing in this section limits or in any way affects any right or remedy of the Minister or the Crown at common law or under any statute. 1960, c. 94, s. 3.

Restraint on alienation of rights in unpatented lands

**28.**—(1) Except with the consent in writing of the Minister, public lands that have been purchased under this Part shall not, before the issue of letters patent, be alienated, mortgaged, or charged, either voluntarily or involuntarily, except by devise or sale under the authority of any Act of the Legislature relating to taxation or statute labour.

Lands not to be liable for debts incurred before patent

(2) Except by mortgage or charge thereon made in favour of the Crown, neither the land nor any interest or right therein is, before the issue of letters patent, liable for the satisfaction of any debt or liability contracted or incurred by such purchaser, his widow, heirs or devisees. R.S.O. 1950, c. 309, s. 20.

Issue of distress warrant, or action for rent in arrear

**29.** Where rent payable to the Crown on a lease of public lands is in arrear, the Minister or an agent or officer appointed under this Act and authorized by the Minister to act in such cases, may issue a warrant, directed to any person named in it, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last-mentioned cases; or an action may be brought in the name of the Minister for the recovery of the arrears, but a demand of the rent is not necessary in any case. R.S.O. 1950, c. 309, s. 21.

Grants or letters patent issued after death of grantee or patentee

**30.** A grant or letters patent issued to or in the name of a person who is dead is not therefore void, but the title to the land thereby granted or intended to be granted vests in the heirs, assigns, devisees or other legal representatives of the deceased person according to the laws in force in Ontario as if the grant or letters patent had issued to or in the name of the deceased person during his lifetime. 1955, c. 66, s. 1.

Cancellation of erroneous patents

**31.**—(1) Where letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer or a wrong description of the land intended to be granted, the Minister, if there is no adverse claim, may direct the defective patent to be cancelled and a correct one to be issued in its stead, and the corrected letters patent relate back to the date of the one so cancelled and have the same effect as if issued at the date of such cancelled letters patent.

Land registered under R.S.O. 1960, c. 204

(2) The powers conferred by subsection 1 may be exercised notwithstanding that the land has been registered under *The Land Titles Act*. R.S.O. 1950, c. 309, s. 22.

**32.** Where grants or letters patent for the same land inconsistent with each other have been issued through error, or where sales or appropriations of the land inconsistent with each other have been made, the Minister may, in cases of sale, cause a repayment of the purchase money, with interest to be made to the person damnified, or where the land has passed from the original purchaser, or has been improved before discovery of the error, or where the original grant or appropriation was a free grant, he may in substitution appropriate land or give a certificate entitling the person damnified to public lands, of such value and to such extent as the Minister deems just; but no claim shall be entertained unless it is made within five years from the discovery of the error. R.S.O. 1950, c. 309, s. 23.

Compensation in case of double or inconsistent grants

**33.**—(1) Where by reason of erroneous survey or of error in the books or plans in the Department any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the letters patent therefor, the Minister may direct that the purchase money of so much land as is deficient, with interest thereon from the time of the application for a refund or if the land has passed from the original purchaser, the Minister may direct that the purchase money that the claimant, if he was ignorant of the deficiency at the time of his purchase, paid for so much of the land as is deficient, with interest thereon from the time of the application for a refund, be paid to him in land or money, as the Minister directs.

Compensation for deficiency of land

(2) In the case of a free grant, the Minister may direct a grant to be made of other land equal in value to so much of the land intended to be granted as is deficient, as a free grant.

Case of free grants

(3) No claim shall be entertained unless it is made within five years from the date of the letters patent, or unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the land granted. R.S.O. 1950, c. 309, s. 24.

Limitations

**34.** If letters patent for land are repealed or avoided in a judicial proceeding, the judgment shall be registered in the proper land titles or registry office. R.S.O. 1950, c. 309, s. 25.

Registration of judgments

**35.**—(1) The Minister may reduce the price of any public lands sold by the Crown before the 23rd day of June, 1942, where it appears that the land was sold at a price beyond its fair value, and that the price or part of it remains unpaid, but the reduction shall not exceed the amount that remains unpaid.

Reduction in the price of lands sold

Abatement  
of interest

(2) The Minister may also make such abatement as he deems just of the arrears of interest upon the unpaid purchase money of any public lands sold by the Crown before the 23rd day of June, 1942.

Inspection  
of lands

(3) Before any such reduction or abatement is made, the land shall be examined and valued by an inspector appointed for that purpose by the Minister.

Persons  
entitled to a  
reduction

(4) The reduction and abatement shall be confined to cases in which the purchaser from the Crown or some person claiming under him is in occupation of the land and is an actual settler on it or on land adjacent to it.

Reduction  
in case of  
school lands  
not to affect  
share of  
Quebec

(5) In the case of school lands, such reductions and abatements shall be made only in respect of, and in proportion to, the share or interest of Ontario in the lands and the price thereof, and do not extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof. R.S.O. 1950, c. 309, s. 26.

Annual lists  
of lands  
granted,  
etc., to be  
furnished  
by Minister  
to county  
treasurers

**36.** The Minister shall in the month of February in every year transmit to the treasurer of every county and of every local municipality in territory without county organization, a list of all land in the county or local municipality patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a licence of occupation was issued during the next preceding calendar year, and the Minister shall in like manner inform every such treasurer of the cancellation of any licence of occupation, sale, lease, location, or appropriation. R.S.O. 1950, c. 309, s. 27.

Provincial  
Secretary  
to furnish  
registrar  
with quar-  
terly state-  
ment of  
Crown  
grants

**37.—(1)** The Provincial Secretary shall, once in every three months, furnish to the registrar of every registry division, a statement containing a list of the names of all persons to whom letters patent have been issued for land in the registry division during the next preceding three months and of all persons whose letters patent have been cancelled during that period with such general or particular descriptions of the land as the case requires.

Duty of  
registrar  
where land  
under  
R.S.O. 1960,  
c. 204

(2) Where a list of patented lands, furnished under this section, contains any land to which section 35 of *The Land Titles Act* applies, it shall be stated in the list that such land is subject to that Act, and in such case and also whenever the Provincial Secretary notifies the registrar of a registry division of the issue of a patent of land to which that section applies, the registrar shall in the abstract index enter the fact that the land is subject to *The Land Titles Act* and shall not thereafter



receive for registration any instrument affecting the land. R.S.O. 1950, c. 309, s. 28.

**38.** No person holding an office in or under the Department and no person employed in or under the Department shall, directly or indirectly, purchase any right, title or interest in any public lands either in his own name or by the interposition of any other person or in the name of any other person in trust for himself without the approval of the Lieutenant Governor in Council. 1958, c. 86, s. 5.

How  
Department  
employees  
may acquire  
public lands

**39.** Where by law or by any deed, lease or agreement relating to any public lands any notice is required to be given, or any act to be done, by or on behalf of the Crown, the notice may be given and the act may be done by the Minister or the Deputy Minister of Lands and Forests or by a person acting under the authority of either of them. R.S.O. 1950, c. 309, s. 31.

How notices  
may be  
given

**40.**—(1) Affidavits required under this Act or under *The Crown Timber Act* or under any other Act relating to the affairs of the Department, and affidavits intended to be used in reference to any claim, business or transaction in the Department, or in respect of which the Department is interested, or which affects the revenue of Ontario under the control of the Department, may be taken before any person having authority to administer oaths, or before the clerk of any county or district court, or before the Minister or either Deputy Minister, or before any agent of the Department under whatever Act or authority such agent may have been appointed an agent or before any person appointed for that purpose by the Minister or either Deputy Minister, or before an Ontario land surveyor appointed by the Minister or either Deputy Minister to inquire into, take evidence in or report upon any matter pending in the Department.

Before whom  
affidavits  
under this  
Act may be  
made  
R.S.O. 1960  
c. 83

(2) Such affidavits, if made out of Ontario, may be taken before any person having authority under *The Evidence Act* to administer oaths out of Ontario. R.S.O. 1950, c. 309, s. 32.

Idem  
R.S.O. 1960,  
c. 125

**41.** A copy of any instrument made or issued under the hand of the Minister or of either Deputy Minister or of any officer or agent of the Department under the authority of this Act or of *The Crown Timber Act* or under the authority of the regulations made under those Acts, purporting to be certified by the Minister, either Deputy Minister, officer or agent as a true copy of such instrument, is *prima facie* evidence of the instrument and of its contents in all courts and before all officers and persons having by law or by the consent of parties

Certified  
copy of  
instrument to  
be evidence  
R.S.O. 1960,  
c. 83

authority to hear, receive and examine evidence. R.S.O. 1950, c. 309, s. 33.

Sale, etc.,  
of public  
lands  
covered  
with water

**42.** The Minister may grant a lease or issue a licence of occupation in respect of any public lands covered with water at such rent or fee and upon such terms and conditions as he deems proper or as are prescribed by the regulations, or, with the approval of the Lieutenant Governor in Council, the Minister may sell any such lands at such price and upon such terms and conditions as he deems proper. 1956, c. 72, s. 4.

Grant of  
forfeited  
land to  
former  
owner  
R.S.O. 1960,  
c. 313

**43.** Where any land forfeited to and vested in the Crown under *The Provincial Land Tax Act* has not been granted, sold, leased or otherwise disposed of, the Minister may direct the issuance of letters patent granting the land to the owner thereof at the time of such forfeiture, or to any person appearing to have had an interest therein at that time, or to the heirs, successors or assigns of such owner or person, upon such terms as the Minister deems just. 1952, c. 86, s. 1.

## PART II

### FREE GRANTS TO ACTUAL SETTLERS

Free grants  
limited

**44.** Except as hereinafter and in section 13 otherwise provided, no free grant of public lands shall be made. R.S.O. 1950, c. 309, s. 35.

Regulations  
re free grants  
to members  
of forces

**45.** The Lieutenant Governor in Council may make regulations,

- (a) providing for free grants not exceeding 160 acres of public land situated anywhere in the Province to former members of the forces;
- (b) defining "former members of the forces";
- (c) prescribing the terms and conditions upon which such grants may be made,

and, except as otherwise provided by the regulations, this Part applies to such grants. R.S.O. 1950, c. 309, s. 36.

Locatee  
defined

**46.** The person to whom land is allotted or appropriated as a free grant shall be deemed to be located for the land within the meaning of this Act, and is hereinafter called the locatee. R.S.O. 1950, c. 309, s. 38.

Right of  
head of  
family to  
free grant

**47.—(1)** The head of a family having a child or children under eighteen years of age residing with him may be located for a free grant to the extent of 160 acres in townships sur-

veyed in sections of 640 acres or in lots of 320 acres, or to the extent of 200 acres in the remainder of the free grant territory.

(2) A male of the age of eighteen years or upwards not having a child may be located for a free grant to the extent of 160 acres in townships surveyed in sections of 640 acres or in lots of 320 acres, or to the extent of 100 acres in the remainder of the free grant territory. Right of male, without child, to free grant

(3) In townships surveyed in sections of 640 acres or lots of 320 acres, in addition to being located as provided for by subsection 1, every head of a family having a child or children under eighteen years of age residing with him may purchase 80 acres, and in the remainder of the free grant territory 100 acres, adjacent to his location at 50 cents an acre, payable in cash. Right of locatee to purchase additional land

(4) Where a person has made substantial improvements on two or more adjoining lots in the district of Kenora or the district of Rainy River and the lots contain more land than he is entitled to locate and purchase, the Minister may sell to him at 50 cents per acre such additional land as under the circumstances the Minister deems proper. Right to purchase in Kenora or Rainy River

(5) Where it appears to the Minister that by reason of rock or swamp a lot or parcel of land containing 100 acres that he is about to allot does not contain that quantity of land that can be made available for farming purposes, he may increase the number of acres to be allotted to the locatee so that there will be allotted to him 100 acres of farming land, but the quantity allotted shall in no case exceed 200 acres. Allowance for rock, lakes or swamp

(6) The powers conferred on the Minister by subsection 5 may also be exercised in respect of land that has been located. In case of located land

(7) Where the whole or an aliquot part of a section or lot is or is to be located, it shall be deemed for the purpose of the location to contain the quantity of land that according to the original survey it was intended to contain. R.S.O. 1950, c. 309, s. 39. Quantity in lot, etc., according to original survey to govern

**48.** Before a person is located he shall make an affidavit, which shall be deposited with the agent to whom the application is made, stating that he has not been located for any land under this Part, and that he is of the age of eighteen years or upwards, that he believes the land for which he desires to be located is suitable for settlement and cultivation and is not chiefly valuable for its pine trees or for its mines and minerals, and that the location is desired for his own benefit, and for the purpose of actual settlement and cultivation of the land, and not, either directly or indirectly, for the use or benefit of any other person, or for the purpose of obtaining, Affidavit of person desiring location

possessing or disposing of any of the pine trees growing or being on the land, or any benefit or advantage therefrom, or mines or minerals therein, and where the applicant is the head of a family and has a child or children under eighteen years of age residing with him or her, that fact shall be stated in the affidavit. R.S.O. 1950, c. 309, s. 40.

Second  
location  
may be  
obtained

**49.** Any person who has obtained letters patent under this Part may, on proving to the satisfaction of the Minister that he has *bona fide* and absolutely parted with the patented land, obtain another location. R.S.O. 1950, c. 309, s. 41.

Issue of  
patents for  
lands  
located or  
sold before  
June 23rd,  
1942

**50.**—(1) Where land was located or sold under this Part before the 23rd day of June, 1942, the Minister may direct the issue of letters patent to the locatee, or any person claiming under or through him,

- (a) who has built a house on the land that is fit for habitation and that has at least 320 square feet of floor space;
- (b) who has resided on the land for a period or periods of at least three years in all;
- (c) who has cleared and cultivated fifteen acres of the land; and
- (d) who pays the balance, if any, of the purchase price of the land.

Exception

(2) The Minister may direct the issue of letters patent for land located or sold under this Part before the 23rd day of June, 1942, where the locatee or purchaser or person claiming under or through him produces evidence satisfactory to the Minister,

- (a) that he is the registered owner of land upon which he has resided for at least three years that is distant not more than five miles from the land so located or sold;
- (b) that at least 30 acres of the land of which he is the registered owner or of the land so located or sold, or of both, have been cleared; and
- (c) that the purchase price of the land so located or sold has been paid. 1953, c. 88, s. 7.

Option as  
to settlement  
duties

(3) Where additional land is purchased by a locatee under section 47, the settlement duties may be performed either on the located or the purchased land or partly on both.

Rights to  
subsequent  
locations

(4) Where a locatee has not been located for the full quantity of land for which he was entitled to be located, or,

having been located for the full quantity, has afterwards become the head of a family having a child or children under eighteen years of age residing with him, he is entitled to be located in the former case for sufficient additional adjacent land to make up the full quantity for which he was entitled to be located, and in the latter case for sufficient additional adjacent land to make up the full quantity for which he would have been entitled to be located, if at the time he was located he had been the head of a family having a child or children under eighteen years of age residing with him, but it is not necessary for him to perform settlement duties on the subsequently located land if the settlement duties have been performed on the land first located.

(5) Where the settlement duties have not been performed or completely performed on the land first located, the Minister may, subject to the regulations, permit them to be performed or completed either on the land first located or the subsequently located land or partly on both. R.S.O. 1950, c. 309, s. 42 (3-5).

Latitude as  
to perform-  
ance of set-  
tlement  
duties

**51.** If such settlement duties are not performed, the Minister may direct that the location be forfeited, and thereupon all rights of the locatee, and of every one claiming under him, in the land ceases. R.S.O. 1950, c. 309, s. 43.

Location  
to be for-  
feited if  
settlement  
duties not  
performed

**52.** If a person entitled to obtain a location under this Part has, without objection by the Crown, for a period of four years or more occupied and has made the prescribed improvements upon one or more lots, not exceeding in quantity that which may be granted under this Part, before the land was opened for location as free grant land, or if the land was open for location, and has so occupied and improved the land but through inadvertence or oversight has not been located for it, the Minister, if satisfied that the land is not chiefly valuable for its pine trees, subject to the regulations, may, after location under this Part, direct the issue of the letters patent upon proof of the performance of the prescribed settlement duties and without waiting for the expiration of three years from the date of the location. R.S.O. 1950, c. 309, s. 44.

When  
patent may  
issue before  
three years

**53.** Where, before the 16th day of December, 1941,

Issue of  
patent

- (a) a person was located on land in excess of the acreage prescribed in subsection 1 or 2 of section 47 and either before or after such date completed the settlement duties in respect thereof; or
- (b) a person was located on land, whether or not in excess of the acreage prescribed in subsection 1 or 2

of section 47, and either before or after such date completed the settlement duties in respect of adjacent land in excess of the acreage prescribed in subsection 3 of section 47,

a patent may issue for all of such land notwithstanding such excess acreage. R.S.O. 1950, c. 309, s. 46.

Land not to be alienated, etc., before issue of patent

**54.**—(1) Neither the locatee nor any one claiming under him has power without the consent in writing of the Minister, to alienate, otherwise than by devise, or to mortgage or charge any land located as a free grant or any right or interest therein before the issue of the letters patent.

After issue of patent, alienation, etc., to be by locatee and wife jointly

(2) Except as provided in section 55, no alienation, otherwise than by devise, and no mortgage or charge of the land, or of any right or interest therein by the locatee after the issue of the letters patent, and within twenty years from the date of the location, and during the lifetime of the wife of the locatee is valid or of any effect, unless the wife of the locatee is one of the grantors with her husband, nor unless the instrument is duly executed by her.

Conveyance of lands by locatee without concurrence of wife under certain circumstances  
R.S.O. 1960, c. 236

(3) Where the wife of a locatee,

- (a) is a mental incompetent or a person of unsound mind, and confined in an institution under *The Mental Hospitals Act*; or
- (b) has been living apart from her husband for two years under such circumstances as by law disentitle her to alimony; or
- (c) has not been heard of for seven years under such circumstances as raise a legal presumption of death,

at any time after the issue of the letters patent a judge of the Supreme Court or a judge of the county or district court of the county or district in which the land or any part of it is situate, may by an order made in a summary way upon such evidence as to him seems meet, dispense with the concurrence of the wife for the purpose of conveying, mortgaging or charging the land.

Notice of application

(4) In the case provided for by clauses *a* and *b* of subsection 3, notice of the application shall be personally served upon the wife unless the judge otherwise directs.

Conditions for benefit of children

(5) The order may be made subject to conditions or directions for the benefit of the children of the locatee, and, subject thereto, it operates to bar the right, title and interest of

the wife in the land to the same extent as if she being of sound mind had been one of the grantors with her husband, and had duly executed the conveyance, mortgage or charge. R.S.O. 1950, c. 309, s. 49.

**55.**—(1) Neither the land, nor any interest or right therein, is liable for the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issue of the letters patent. Exemption from liability for debt before issue

(2) After the issue of the letters patent and while the land, or any part of it, or any interest in it, is owned by the locatee or his widow, heirs, or devisees, it is during the twenty years next after the date of the location exempt from attachment, levy under execution or sale for the payment of debts, and is not liable for the satisfaction of any debt or liability contracted or incurred before or during that period, except a debt secured by a valid mortgage or charge of the land made after the issue of the letters patent. R.S.O. 1950, c. 309, s. 50. Exemption after issue of patent

**56.** The name of the original locatee, the date of the location, and that the letters patent are issued under the authority of this Part shall be stated in the body of the letters patent. R.S.O. 1950, c. 309, s. 51. Patents to state date of location etc.

**57.**—(1) On the death of the locatee, whether before or after the issue of the letters patent, all his then interest and right in the land, including the right to letters patent granting the land, descend to and become vested in his widow in lieu of dower, but the widow may elect to have her dower in the land in lieu of this provision. Right of widow on death of locatee

(2) Where the widow of a locatee remarries, she does not thereby divest herself of any interest or right vested in her under subsection 1. R.S.O. 1950, c. 309, s. 52. Right of widow of locatee after remarriage

**58.** Nothing in this Part exempts the land from levy or sale for rates or taxes legally imposed. R.S.O. 1950, c. 309, s. 53. Exemption not to extend to taxes

**59.** The Minister may, by remitting any sum due to the Crown in respect of his land by such settler, place any *bona fide* settler in free grant territory, who settled thereon before it was opened for settlement as free grant territory and who is in the occupation of the land, in the same position as if his land had been free grant land at the time he settled on it. R.S.O. 1950, c. 309, s. 54. Minister may remit sums due by settlers in free grant townships

## PART III

## PROVISIONS OF GENERAL APPLICATION

Opening of  
lands for  
location  
and sale

**60.**—(1) The Lieutenant Governor in Council may open for sale under Part I or for location and sale under Part II to actual settlers any lands that he deems suitable for agricultural purposes. 1951, c. 71, s. 2.

Interpre-  
tation

(2) The expression "suitable for agricultural purposes" in subsection 1 means lands that are at least 50 per cent arable and that are in a school section or within one mile of a highway or three miles of a school bus route. 1953, c. 88, s. 9.

Where  
patents to  
certain  
lands in sale  
townships  
may issue

**61.**—(1) Where land was sold under Part I before the 23rd day of June, 1942, to actual settlers, the Minister may direct the issue of letters patent to the purchaser or any person claiming under him,

- (a) who has built a house on the land that is fit for habitation and that has at least 320 square feet of floor space;
- (b) who has resided on the land for a period or periods of at least three years in all;
- (c) who, in respect of land in the district of Cochrane or Timiskaming, has cleared and cultivated 10 per cent of the land where the sale was made before the 30th day of September, 1925, or 15 acres of the land where the sale was made on or after such date, or who, in respect of land in Ontario, other than in the district of Cochrane or Timiskaming, has cleared and cultivated 10 per cent of the land; and
- (d) who pays the balance, if any, of the purchase price of the land and the interest thereon. R.S.O. 1950, c. 309, s. 56; 1953, c. 88, s. 10 (1, 2).

Exception

(2) The Minister may direct the issue of letters patent for land sold under Part I in the territorial district of Cochrane or Timiskaming before the 30th day of September, 1925, or in any other part of Ontario before the 23rd day of June, 1942, where the purchaser or person claiming under or through him produces evidence satisfactory to the Minister,

- (a) that he is the registered owner of land upon which he has resided for at least three years that is distant not more than five miles from the land so sold;
- (b) that at least 10 per cent of the land so sold is cleared and cultivate; and



- (c) that the purchase price of the land so sold and the interest thereon has been paid. 1953, c. 88, s. 10 (3).

**62.**—(1) All trees on land that has been disposed of under this Act for agricultural purposes remain the property of the Crown until the issuance of letters patent, whereupon the property in such trees passes to the patentee. Reservation  
of trees

(2) During the time the trees on land that has been disposed of under this Act for agricultural purposes remain the property of the Crown, the purchaser or locatee of such land, or anyone claiming under him, may cut and use all such trees as are necessary for building on and fencing such land, and he may cut and dispose of all such trees required to be removed in clearing the land for cultivation, but no trees except those necessary for such building and fencing shall be cut beyond the limit of the actual clearing without the consent in writing of an officer authorized by the Minister for the purpose. Cutting  
rights of  
settlers  
before  
patent

(3) All trees cut under subsection 2 and sold or bartered are subject to the payment of the same charges as are at the time payable by the holders of licences to cut timber, unless the Minister otherwise directs in writing. 1951, c. 71, s. 3, *part*. Payment of  
Crown dues

(4) Where land is disposed of under this Act for agricultural purposes and a licence to cut timber on such land is subsisting at the time the disposition is made, the licence shall be deemed to be revoked in respect of such land, and in any such case the Minister may compensate the holder of such licence by granting to him a licence to cut timber elsewhere. 1951, c. 71, s. 3, *part, amended*. Revocation  
of timber  
licences on  
settlers'  
land

**63.**—(1) Where land is disposed of under this Act for agricultural purposes, the property in all trees thereon shall be deemed to have passed to the patentee by the letters patent, and every reservation of any class or kind of tree contained in the letters patent shall be deemed to be void. 1951, c. 71, s. 3, *part*. Property  
in trees  
vested in  
patentee

(2) Where public lands have been disposed of by the Crown under this or any other Act and some but not all of the species of trees thereon have been reserved to the Crown and are not under timber licence, the Minister may, if the lands comprise not more than 200 acres, or, if the lands comprise more than 200 acres, the Minister may, with the approval of the Lieutenant Governor in Council, acquire any species of trees not so reserved or release any species of trees so reserved at such price and upon such terms and conditions as he deems proper. 1958, c. 86, s. 6. Release of  
trees  
reserved,  
etc.

Orders may  
be registered

(3) Any order made under subsection 2 may be registered in the proper registry or land titles office. 1951, c. 71, s. 3, *part.*

Interpre-  
tation

**64.** In sections 62 and 63, the expression "this Act" includes any predecessor of this Act. 1951, c. 71, s. 3, *part.*

Reservation  
of mines  
and  
minerals

**65.** In any letters patent issued for lands located or sold under this Act for agricultural purposes on or after the 1st day of April, 1957, the mines and minerals shall be reserved to the Crown. 1957, c. 99, s. 3.

Mines and  
minerals on  
certain  
lands to  
be deemed  
to have  
passed to  
patentee

**66.**—(1) In the case of land patented before the 6th day of May, 1913, the mines and minerals therein shall be deemed to have passed to the patentee by the letters patent, and every reservation thereof contained in the letters patent or by statute is void.

Exception  
as to appli-  
cation of  
subsection 1

(2) Subsection 1 does not apply where,

R.S.O. 1960  
c. 241

(a) the mines and minerals or any of them in any land have been alienated or disposed of under *The Mining Act* or any predecessor of that Act;

(b) the mines or minerals or any of them have reverted or may hereafter revert to the Crown through abandonment, cancellation, forfeiture or otherwise.

Lands  
patented  
after May  
6th, 1913

(3) In the case of lands patented after the 6th day of May, 1913, mines and minerals pass to the patentee unless expressly reserved by the letters patent.

Certificate

(4) The Minister of Mines or the Deputy Minister of Mines may issue a certificate as to the issue of letters patent with respect to any lands, mines or minerals affected by this section and every such certificate shall be received and recorded in the proper registry or land titles office. R.S.O. 1950, c. 309, s. 59.

Fee for  
certificate

(5) An applicant for a certificate under subsection 4 shall pay a fee of \$5 for every such certificate. 1953, c. 88, s. 11.

Ores, etc.,  
to be  
treated in  
Canada

**67.**—(1) All lands patented or otherwise disposed of under this Act after the 12th day of April, 1917, are subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined in Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the patent or other form of title of such lands is void, and the lands revert to and become vested in the Crown, freed and discharged of any interest or claim of every other person.

(2) The Lieutenant Governor in Council is hereby authorized to exempt any lands from the operation of this section for such period of time as he deems proper. R.S.O. 1950, c. 309, s. 60. — <sup>Power to exempt lands</sup>

**68.**—(1) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, there shall be reserved to the Crown the right to construct on the land any colonization or other road or any road in lieu of or partly deviating from an allowance for road without making compensation therefor, and such right whether or not it is expressly reserved from the sale, location, lease, licence of occupation, mining claim or other disposition of the land or by the letters patent when issued shall be deemed to be so reserved. R.S.O. 1950, c. 309, s. 61 (1). <sup>Right to make roads reserved in sales, etc.</sup>

(2) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, where the letters patent have been issued containing a reservation of any of the area for roads, wood, gravel and other materials required for the construction or improvement of any colonization or other road or of any road in lieu of or partly deviating from an allowance for road, may be taken from the land without making compensation therefor or for the injury thereby done to the land from which they are taken, and where the letters patent have been issued without a reservation being made of any of the area for roads, wood, gravel and other materials required for the purposes hereinbefore mentioned may be taken from the land, but compensation shall be paid as provided by *The Public Works Act*. R.S.O. 1950, c. 309, s. 61 (2); <sup>Right to take wood, gravel, etc., for roads</sup> R.S.O. 1960, c. 338, 1955, c. 66, s. 2.

(3) The rights mentioned in subsections 1 and 2 may be exercised by the Minister or by any person authorized by him to exercise them on behalf of the Crown. R.S.O. 1950, c. 309, s. 61 (3). <sup>Minister or person authorized by him may exercise rights</sup>

(4) Where public lands over which a portage has existed or exists have been heretofore or are hereafter sold or otherwise disposed of under this or any other Act, any person travelling on waters connected by the portage has the right to pass over and along the portage with his effects without the permission of or payment to the owner of the lands, and any person who obstructs, hinders, delays or interferes with the exercise of such right of passage is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1960, c. 94, s. 4. <sup>Right of passage over portages</sup>

Release of  
road  
reservations

**69.**—(1) Where letters patent have issued for land that is in a municipality and the Minister is of opinion that the present and future needs of the locality as to roads are adequately provided for, he may, upon application of the owner of the land or any part thereof and upon payment of a fee of \$25, make an order releasing and discharging the land or part from any reservation relating to roads mentioned in section 68 or in the letters patent. 1958, c. 86, s. 7.

Registra-  
tion of  
orders

(2) Any order made under subsection 1 may be registered in the proper registry or land titles office. 1953, c. 88, s. 12, *part*.

Reservation  
of water  
power on  
public  
lands

**70.** In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands, or mining lands or mining rights, the Minister may reserve from sale any water power or privilege, and such area of land in connection therewith as he deems necessary for the erection of buildings and plant and the development and utilization of the power, together with the right to lay out and use such roads as may be necessary for passage to and from such water power or privilege and land. R.S.O. 1950, c. 309, s. 62.

Building  
conditions  
in patents  
voided

**71.** Where letters patent have issued granting summer resort lands subject to the conditions that the patentee shall within eighteen months from the date of the patent expend not less than \$300 in the construction of buildings or of other improvements and that no building or other construction shall be erected unless the plan and description thereof have been approved by the Minister, such conditions shall be deemed to be void and of no effect. 1951, c. 71, s. 4.

Certificate

**72.**—(1) The Minister may issue a certificate as to any condition, proviso or reservation that is void by statute.

Fee for  
certificate

(2) An applicant for a certificate under subsection 1 shall pay a fee of \$15 for every such certificate. 1956, c. 72, s. 7.

Right of  
Crown to  
one-quarter  
of lots

R.S.O. 1960,  
cc. 204, 348

**73.**—(1) Subject to subsection 5, where public lands that have been disposed of by the Crown under this or any other Act are surveyed and subdivided for the purpose of being sold or conveyed in lots or blocks by reference to a plan to be registered under *The Land Titles Act* or *The Registry Act* and such plan is signed within five years of the issue of the letters patent granting the land by the owner of the land shown on the plan to be registered, one-quarter in acreage of all the lots and blocks shown on the plan become the property of and are vested in the Crown upon the registration of the plan.

(2) In cases under subsection 1, the Minister may make such selection of the lots or blocks on the plan as he and the person by whom the plan is to be registered agree upon, or the Minister may first select one lot or block and such person shall then select three lots or blocks and so on in turn, the Minister selecting one and such person three until the division is made. Manner of selection

(3) The selection made under subsection 2 shall comprise as nearly as may be one-quarter in acreage of all the lots and blocks on the plan and, for the purpose of subsection 1, the selection so made shall be deemed to comprise one-quarter in acreage of such lots and blocks. Selection made deemed to be one-quarter of lots

(4) In cases under subsection 2, there shall be endorsed on the plan a certificate of the Minister in the words or in words of like effect: Certificate of Minister as to selection

I hereby certify that, pursuant to subsection 2 of section 73 of *The Public Lands Act*, I have selected .....from all the lots and blocks on this  
(lot or block)  
plan.

Dated at Toronto this.....day of.....19.....

.....  
Minister of Lands and Forests

(5) The Minister, with the approval of the Lieutenant Governor in Council, may accept a money payment in lieu of one-quarter in acreage of all the lots and blocks on the plan. Commutation

(6) In cases under subsection 5, there shall be endorsed on the plan a certificate of the Minister in the words or in words of like effect: Certificate of Minister as to money payment

Pursuant to subsection 5 of section 73 of *The Public Lands Act*, the Lieutenant Governor in Council by his Order Number....., dated the.....day of....., 19....., has approved the acceptance of a money payment in lieu of one-quarter in acreage of all the lots and blocks on this plan.

Dated at Toronto this.....day of.....19.....

.....  
Minister of Lands and Forests

(7) No plan under this section and no instrument referring thereto shall be registered in any land titles or registry office until a certificate under subsection 4 or 6 is endorsed thereon. Condition precedent to registration

(8) In cases under subsection 2, the local master of titles or the registrar, as the case may be, shall, upon registration of the plan, enter Her Majesty the Queen in right of Ontario as the owner of the lots or blocks mentioned in the certificate endorsed thereon. Entry of Crown as owner

(9) Nothing in this section affects any rights in mines or minerals. 1958, c. 86, s. 8. Mines and minerals



## CHAPTER 325

## The Public Libraries Act

## 1. In this Act,

Interpre-  
tation

- (a) "board" in Part I means a public library board, in Part II means a board of management of a public library association, in Part IV means a county library board, and in Part V means any board established under this Act, or a predecessor of this Act;
- (b) "branch library" means a library maintained as a subsidiary agency and in the same municipality as a public library;
- (c) "Department" means the Department of Education;
- (d) "library" means a collection of books which may comprise periodicals, magazines and other printed works for circulation or reference and includes branch libraries, reading rooms, museums, printing and binding bureaux and plants that may be established or used in connection with a library;
- (e) "library co-operative" means a library co-operative established in accordance with this Act in a county or in one or more territorial districts;
- (f) "Minister" means the Minister of Education;
- (g) "regulations" means the regulations made under this Act or *The Department of Education Act*. R.S.O. 1950, c. 310, s. 1; 1957, c. 100, s. 1; 1959, c. 82, s. 1, <sup>R.S.O. 1960, c. 94</sup> amended.

## PART I

## PUBLIC LIBRARY BOARDS

2. The provisions of this Part apply to every free public library maintained in whole or in part by municipal taxation and established under this Part or a predecessor of this Part. <sup>Application of Part I to free public libraries</sup>  
R.S.O. 1950, c. 310, s. 2.

3. A public library may be established in a city, town, village, police village, township, rural school section, union <sup>Where library may be established</sup>

school section or township school area under the conditions and in the manner hereinafter provided. R.S.O. 1950, c. 310, s. 3.

Petition  
for estab-  
lishment of  
library in  
city, town  
or village

R.S.O. 1960,  
c. 249

4. The council of a city, town or village may, and upon the receipt of a petition (Form 1) signed, in the case of a city or town by at least sixty, and in the case of a village by at least thirty municipal electors, shall prepare and submit to the electors in the manner provided by *The Municipal Act* a by-law (Form 2) for the establishment of a public library. R.S.O. 1950, c. 310, s. 4.

In township

5.—(1) The council of a township may and upon receipt of a petition (Form 1) signed by at least sixty municipal electors, exclusive of those resident within a police village that is not situate wholly in the township, shall prepare and submit to the electors of the township, exclusive of those resident within a police village that is not situate wholly in the township, in the manner provided by *The Municipal Act* a by-law (Form 2) for the establishment of a public library.

Police  
village,  
when not  
included

(2) No part of any police village situate in more than one township is subject to taxation for any public library established for a township.

when  
included

(3) Where a township contains a police village or police villages, every such police village shall be considered as part of the township for the purpose of establishing a public library under this Part, and any public library established by a police village situate in a township shall, upon the establishment of a township public library, become part of such library, but the property of the police village library shall not be removed from the police village. R.S.O. 1950, c. 310, s. 5.

In police  
villages

6. The council of a township or the councils of townships in which a police village is situate, upon receipt of a petition (Form 1) signed by at least thirty municipal electors resident in the police village, shall prepare and submit to the electors in the police village in the manner provided by *The Municipal Act* a by-law (Form 2) for the establishment of a public library therein. R.S.O. 1950, c. 310, s. 6.

When  
council  
to pass  
by-law

7.—(1) Where a by-law submitted to the electors under this Part receives the assent of a majority of the electors voting thereon, it is the duty of the council, or in the case of a police village situate in more than one township, it is the duty of the councils of the townships to pass the by-law without unnecessary delay, and it is the duty of the head of every council and of the clerk to sign the by-law.



(2) The clerk of the municipality or the clerks of each of the municipalities in which a by-law has been voted upon by the electors and has received the assent of the electors, shall forthwith give notice to the Minister in writing of the number of votes for, and the number of votes against, the by-law in the municipality of which he is clerk. <sup>Notice of vote to be given to Minister</sup>

(3) Where the by-law does not receive the assent of the electors, no new by-law for the same purpose shall be submitted to the electors in the same calendar year. R.S.O. 1950, c. 310, s. 7. <sup>When by-law defeated</sup>

**8.**—(1) The petition for the establishment of a public library in a school section shall be in a form to be supplied by the Minister (Form 3) and shall be signed by a majority of the public and separate school supporters in the section, and upon filing the petition with an affidavit of the due execution thereof with the clerk of the township or the clerks of the townships in which the section or union school section is situate, or where the section or union school section is situate in territory without municipal organization with the school trustees of the section, the township clerk or township clerks, or the secretary of the school trustees as the case may be, shall examine the petition, and, if it is found that the petition contains the names of a majority of the public and separate school supporters in the section or union section, shall give notice in writing to the public school trustees and to the separate school trustees, if any, in the school section or union section of the filing of the petition. <sup>Petition</sup>

(2) Upon receipt of such notice, it is the duty of the trustees to make appointments to the board of the public library as hereinafter provided. <sup>Appointment to board</sup>

(3) The clerk or secretary, as the case may be, shall forthwith give notice in writing to the Minister of the filing of the petition. <sup>Notice to Minister</sup>

(4) A public library established in a school section or in a union school section shall become disestablished, <sup>Disestablishment of public library in school section</sup>

- (a) when the township or one of the townships in which it is situate establishes a public library in which case the library established by the school section, if in a school section wholly situate in the township, shall become part of the township library, and if only partly situate therein the assets of the school section library may be distributed as the Minister may direct;

- (b) when a petition demanding the disestablishment of a public library is signed by a majority of the public

and separate school supporters of the school section or union school section and is filed with an affidavit of the due execution thereof with the clerk of the township or with the clerk of each of the townships in which the section or union section is situate, or in case of a union section not situate in an organized township, with the secretary of the school trustees of the section, it shall be the duty of the clerk, or of each of the clerks, or of the secretary, as the case may be, to give notice in writing to the Minister of the disestablishment of the library. R.S.O. 1950, c. 310, s. 8.

Petition

**9.**—(1) The petition for the establishment of a public library in a township school area shall be in Form 3 with such alterations as may be necessary and shall be signed by a majority of the public and separate school supporters in the township school area, and upon the filing of the petition with an affidavit of the due execution thereof with the clerk of the township, or, where the township school area extends beyond one township, with the clerk of the township having the greatest equalized assessment within the township school area, the clerk shall examine the petition.

Notice to  
Minister  
and school  
trustees

(2) If the clerk finds that the petition contains the names of a majority of the public and separate school supporters in the township school area, he shall forthwith give notice in writing to the Minister, to the public school trustees of the township school area, and to the trustees of any separate school in the township school area, of the filing of the petition.

Appointment  
of board

(3) Upon receipt of the notice it is the duty of the trustees to make appointments to the board of the public library as hereinafter provided. R.S.O. 1950, c. 310, s. 9.

Transfer of  
assets of  
library asso-  
ciation or  
mechanics'  
institute  
to board

**10.** A library association established under Part II of this Act or under any former Act relating to mechanics' institutes or library associations, may by resolution passed at an annual meeting of the association or at a meeting specially called for the purpose, declare its desire that the library of the association be transferred to a public library board appointed in the manner provided by this Part, and thereupon a public library board may be appointed and the assets and property of the association may be transferred to it and the necessary by-laws may be passed for that purpose and for the establishment of the library as a public library under this Part, but it is not necessary to submit such by-law to the electors. R.S.O. 1950, c. 310, s. 10.

**11.** Subject to the regulations and the approval of the Minister and with the consent of the councils by which the boards were established, any two boards may enter into an agreement by which one of them shall receive library service from the other for part or all of the municipality, police village or school section, as the case may be, but the board receiving such service is not entitled to representation on the board by which such service is rendered. R.S.O. 1950, c. 310, s. 12.

Agreement  
for inter-  
change of  
library  
service

**12.** Subject to the regulations and to the approval of the Minister, any library co-operative or any municipality, police village, school section or township school area for which a public library has not been established, or any school board or board of education, may enter into an agreement with a public library board for securing library services. R.S.O. 1950, c. 310, s. 13.

Agreements  
for library  
services

**13.** The general management, regulation and control of the library are vested in a board which is a body corporate by the name of "The..... Public Library Board" (*inserting the name of the municipality, police village or school section, as the case may be*). R.S.O. 1950, c. 310, s. 14.

Public  
library  
board

**14.** Except as otherwise provided by this Act, no person who is a member of any one of the bodies entitled to appoint is qualified to be a member of the board and no person shall be appointed a member of the board who is not a British subject or who is less than twenty-one years of age, or is not a resident of the municipality, police village or school section. R.S.O. 1950, c. 310, s. 15.

Necessary  
qualifica-  
tions for  
board

**15.—(1)** The board in a city, town or village shall be composed of the mayor in the city or town, or the reeve of a village and three members to be appointed by the council, three to be appointed by the public school board or board of education qualified to deal with public school affairs in the municipality and two by the separate school board, if any.

Mode of  
appointment  
in cities,  
towns and  
villages

**(2)** Of the three members first appointed by the council and public school board, or board of education respectively, one shall be appointed to hold office until the 1st day of February after his appointment, one until the 1st day of February of the following year, and one until the same day in the year next thereafter, and of the two members first appointed by the separate school board, one shall be appointed to hold office until the 1st day of February after his appointment, and one until the 1st day of February in the following year, but every member shall continue to hold office until his successor is appointed.

Term of  
office, of  
first  
members

of subse-  
quent  
members

(3) Subject to the foregoing provisions, each of the members appointed by the council, or public school board, or board of education, shall hold office for three years from the 1st day of February in the year in which he is appointed, and each of the members appointed by the separate school board, for two years from the 1st day of February in the year in which he is appointed. R.S.O. 1950, c. 310, s. 16.

In police  
villages

**16.**—(1) The board in a police village shall be composed of the chairman of the board of police trustees, and two persons appointed by the police trustees, two persons appointed by the board of the school section or each of the school sections comprised in, or forming part of the police village, and two persons appointed by the separate school board, if any, having jurisdiction in the police village.

Term of  
office,  
of first  
members

(2) Of the members first appointed by the police trustees and public school board or boards and the separate school board, if any, respectively, one shall be appointed to hold office until the 1st day of February after his appointment, and one until the 1st day of February in the following year, but every member shall continue to hold office until his successor is appointed.

of subse-  
quent  
members

(3) Subject to the foregoing provisions, each of the members appointed to the board in a police village shall hold office for two years from the 1st day of February in the year in which he is appointed. R.S.O. 1950, c. 310, s. 17.

In town-  
ships,  
annual  
appoint-  
ments

**17.** The board in a township shall be composed of the reeve of the township and four members appointed by the township council, one of whom shall be a separate school supporter if there is a separate school in the township, and the appointments shall be made annually, but every member shall continue to hold office until his successor is appointed. R.S.O. 1950, c. 310, s. 18.

In school  
sections

**18.** The board in a school section shall be composed of five persons, all of whom shall be appointed by the public school trustees where there is no separate school and where there is a separate school three members shall be appointed by the public school trustees and two members by the separate school trustees, and the appointments shall be made annually. R.S.O. 1950, c. 310, s. 19.

In township  
school  
areas

**19.**—(1) Where there is no separate school in the township school area, the board shall be composed of five persons appointed by the public school trustees.

Idem

(2) Where there is a separate school in the township school area, the board shall be composed of three persons appointed

by the public school trustees, and two persons appointed by the separate school trustees.

(3) All appointments shall be made annually. R.S.O. <sup>Appoint-  
ments  
annually</sup>  
1950, c. 310, s. 20.

**20.**—(1) The councils of two or more municipalities may <sup>Union  
public  
library</sup> enter into agreement for the establishment of a union public library.

(2) Any agreement under subsection 1 shall provide for <sup>Agreement</sup> the proportion of the cost of the establishment, operation and maintenance of the union public library that shall be borne by each municipality.

(3) The general management, regulation and control of <sup>Union  
board</sup> a union public library are vested in a board which is a body corporate by the name of "The.....(*inserting  
the names of the municipalities concerned*) Union Public Library Board".

(4) The union public library board shall be composed of <sup>Composition  
of board</sup> such number of members appointed by the council of each municipality concerned for such term of office as the agreement may provide.

(5) All members of a union public library board who are <sup>Qualifica-  
tions of  
members</sup> not members of a municipal council shall be British subjects, over twenty-one years of age and residents of the municipalities for which the union public library is established.

(6) When a union public library is established, every <sup>Dissolution  
of boards  
included  
in union</sup> public library board formerly established in the municipalities for which the union public library board is established is thereby dissolved and the assets and liabilities of such public library boards are vested in and assumed by the union public library board. 1959, c. 82, s. 3, *part*.

**21.**—(1) Two or more public library boards, union public <sup>Agreements  
for library  
service</sup> library boards or county library boards, or any of them, may enter into agreements for providing any library service on such terms and conditions as may be agreed upon. 1959, c. 82, s. 3, *part*.

(2) Where a board supplies library service to another <sup>Fee for  
library  
service</sup> board, it may charge a per capita fee for such service based on the population in the area under the jurisdiction of the board receiving the service, but such fee shall not exceed the per capita cost of operation, excluding the capital cost of land, buildings, furnishings, bookmobiles and other equipment, of the board supplying the service based on the population in the area under the jurisdiction of such board. 1960, c. 95, s. 1.

Time for  
making  
appoint-  
ments

**22.** The first appointment of members shall be made at the first meeting of the appointing body after the final passing of the by-law, and in the case of a school section, after the filing of the petition, and the annual appointments thereafter shall be made at the first meeting of the appointing body after the 1st day of January in each year, and any vacancy arising from any cause, other than the expiration of the time for which a member was appointed, shall be filled at the first meeting thereafter of the appointing body, but if for any reason an appointment is not made at the prescribed time, it shall be made as soon as may be thereafter. R.S.O. 1950, c. 310, s. 22.

Vacancies,  
how  
filled

**23.**—(1) In case of a vacancy by death or resignation of a member, or from any cause other than the expiration of the term for which he was appointed, the member appointed in his place shall hold office for the remainder of the term.

Vacancies  
by disquali-  
fication

(2) If a member of the board is convicted of any offence against the criminal laws of Canada, or becomes mentally ill, or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be a resident within the municipality or police village, he *ipso facto* vacates his seat, and the remaining members shall forthwith declare his seat vacant and notify the appointing body accordingly. R.S.O. 1950, c. 310, s. 23.

Members  
of board  
not to be  
parties to  
contracts,  
etc.

**24.**—(1) A member of a board shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another, in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise is void, and a member violating the provisions of this section *ipso facto* vacates his seat.

Proceeding  
to vacate  
seat

(2) On the complaint of any ratepayer of the municipality or police village or school section, or of the remaining member or members of the board, the judge of the county or district court or if he is a member of the board, the master of the Supreme Court shall, on proof of the facts declare the seat vacant, and the secretary of the board shall forthwith notify the appointing body to make a new appointment. R.S.O. 1950, c. 310, s. 24.

Saving  
as to  
newspaper  
proprietors,  
etc.

**25.** No person is disqualified from being a member of a board, or from sitting and voting on such board by reason

only of being proprietor of or otherwise interested in a newspaper or other periodical publication that is subscribed for or in which an advertisement is inserted by the board in the regular course of business, if such subscription or advertisement is paid for at the usual rate, but such member is not entitled to vote where his own account is in question. R.S.O. 1950, c. 310, s. 25.

**26.**—(1) The board at its first meeting in each year shall <sup>Chairman</sup> elect one of its members as chairman.

(2) In the absence of the chairman from any meeting, <sup>Acting chairman</sup> the board may appoint one of its members an acting chairman for the meeting.

(3) The board shall appoint a secretary who may also be <sup>Secretary</sup> the librarian and who shall,

- (a) conduct the official correspondence for the board; and
- (b) keep a full and correct record of the proceedings of every meeting of the board in a minute book provided for that purpose by the board, and ensure that the minutes when confirmed are signed by the presiding officer.

(4) The board shall appoint a treasurer, who may also be <sup>Treasurer</sup> the secretary or assistant secretary and who shall,

- (a) receive and account for all moneys of the board;
  - (b) open an account in the name of the board in a chartered bank approved by the board;
  - (c) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts; and
  - (d) disburse all moneys as directed by the board.
- 1959, c. 82, s. 4.

(5) The chairman or acting chairman of the board may <sup>Voting</sup> vote with the other members of the board upon all questions, and any question on which there is an equality of votes shall be deemed to be negative.

(6) The presence of a majority of all the members com- <sup>Quorum</sup>prising the board is necessary to form a quorum, and a vote of the majority of a quorum is necessary to bind the board. 1960, c. 95, s. 2.

**27.**—(1) The board shall hold regular meetings at least <sup>Regular meetings</sup> once in every month from February to June inclusive and from September to January inclusive and at such other times as it

may think fit, provided that in a municipality having a population of less than 2,000 the board may hold its regular meetings in alternate months only.

Special  
meetings

(2) The chairman or any two members may summon a special meeting of the board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called.

Quorum

(3) The presence of a majority of all the members constituting a board is necessary for the transaction of business at any general or special meeting.

Records of  
board

(4) All orders and proceedings of the board shall be entered in books to be kept for that purpose and after confirmation by the board shall be signed by the chairman.

Evidence  
of records

(5) The orders and proceedings so entered and purporting to be so signed, shall be deemed to be the originals thereof, and such books may be produced and read as evidence of the orders and proceedings in any judicial proceedings. R.S.O. 1950, c. 310, s. 27.

Accounts  
and audit

**28.**—(1) The board shall keep distinct and regular accounts of its receipts, payments, credits and liabilities and the accounts shall be audited by the municipal auditors in like manner as the accounts of a municipality, and shall after having been audited be laid before the council by the board.

Inspection  
of books  
by Minister

(2) All books and records shall be open to the inspection of the Minister or to any person appointed to act on his behalf. R.S.O. 1950, c. 310, s. 28.

Annual  
report

**29.** Subject to the regulations, an annual report shall be transmitted to the Minister for each library on forms supplied for the purpose. R.S.O. 1950, c. 310, s. 29.

Limit on  
expenditure  
on capital  
account

**30.** A board shall not in any year purchase any land or erect any buildings or make any addition or alterations thereto and pay the cost thereof from current revenue without the authority of the municipal council if the cost exceeds a sum equal to one-fifth of the amount to which the board is entitled as a public library rate for the year. R.S.O. 1950, c. 310, s. 30.

Powers of  
board as to  
acquiring  
and holding  
property

**31.**—(1) Subject to the restrictions and provisions herein-after contained, the board has power to acquire by purchase, expropriation, lease or otherwise, all lands required for library and branch library purposes, and to erect, lease or otherwise procure the necessary buildings therefor, and hold, maintain and repair the same, and has power, with the consent of the municipal council, to sell, exchange or otherwise dispose of



any lands or buildings that may no longer be required for such purposes. R.S.O. 1950, c. 310, s. 31 (1).

(2) The board, with the consent of the municipal council, may acquire, or may erect on any lands held by it, buildings larger than are required for library and branch library purposes, and may lease any parts of the buildings not so required. 1952, c. 87, s. 1.

(3) The provisions of *The Municipal Act* as to taking land compulsorily and making compensation therefor and as to the manner of determining and paying the compensation *mutatis mutandis* apply to the public library board and to the exercise by it of the powers conferred by this section, and where any act is by any of such provisions required to be done by the clerk of a municipality, or at the office of such clerk, the like act shall be done by the secretary of the board, or at his office, as the case may be. R.S.O. 1950, c. 310, s. 31 (2).

### 32. The board shall,

- (a) ensure that every library under its charge is conducted in accordance with this Act and the regulations;
- (b) fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;
- (c) transmit to the Minister all reports required by this Act and the regulations or requested by him;
- (d) make provision for insuring the buildings and equipment owned by the board;
- (e) operate a main library and any number of branch libraries, mobile units, deposit stations, art galleries or museums that it deems necessary;
- (f) submit to the council, as soon as possible in each year and in any case upon request, a detailed estimate of the sums required for the current year to meet the cost of operation and for capital expenditures and indicate any surplus or deficit from the preceding year in each account;
- (g) take proper security for the treasurer or secretary-treasurer; and
- (h) provide suitable furniture, equipment and an adequate supply of library books and magazines. 1959, c. 82, s. 5, *part.*

Powers and  
duties of  
board

Acquisition  
or erection  
of building  
larger than  
required  
Compensation for ex-  
propriated  
land  
R.S.O. 1960,  
c. 249

Permissive  
powers of  
board

**33.** The board may,

- (a) appoint such committees as it may deem expedient;
- (b) appoint and remove such officers and servants as it may deem necessary, determine the terms on which they are to be employed, fix their salaries and prescribe their duties; and
- (c) collect fines for overdue or lost books and charge a non-resident fee per year to a borrower who is not a resident or a ratepayer in the municipalities or parts thereof that form part of the library service. 1959, c. 82, s. 5, *part*.

Gratuities to  
employees  
on  
retirement

**34.** The board of any public library under this Part may, subject to approval of the municipal council, pay to any employee retiring by reason of advanced age, ill-health or other disability such gratuity or retiring allowance as the board may think proper. R.S.O. 1950, c. 310, s. 35 (1).

Pensions

R.S.O. 1960,  
c. 361

**35.** A public library board, by resolution, may provide pensions for employees or any class thereof in accordance with section 38 of *The Schools Administration Act* and the provisions thereof apply *mutatis mutandis*. 1955, c. 67, s. 1, *part*.

Sick leave  
credits

**36.** A public library board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof in accordance with section 39 of *The Schools Administration Act* and the provisions thereof apply *mutatis mutandis*. 1955, c. 67, s. 1, *part*.

Rules

**37.**—(1) Subject to the regulations, the board may make rules for the use of the library, reading rooms and museums, and for the admission of the public thereto, and for regulating all other matters and things connected with the management of the library, reading rooms and of all property under its control, and may impose fines for breaches of the rules, not exceeding \$10 for any offence.

Promulga-  
tion of  
rules

(2) Such rules shall be binding on all persons concerned after they have been published once a week for at least two weeks in a newspaper published in the municipality or police village and if no newspaper is published therein, they shall be posted in a conspicuous place within the library, and the board shall have for distribution printed copies of the rules, or keep the rules permanently posted in written or printed form in a conspicuous place in the library. R.S.O. 1950, c. 310, s. 36.

**38.** Nothing herein precludes the recovery of the value of articles or things damaged, or the amount of damage sustained from persons liable for the same. R.S.O. 1950, c. 310, s. 37. <sup>Right to damages</sup>

**39.** Subject to the regulations, the Minister, upon the application of the board, may authorize the board to close the library for a limited number of days when in the opinion of the board such closing is necessary or expedient and if authorized by the regulations the board may close the library for a period not exceeding two successive weeks at any time during the period between the 1st day of June and the 31st day of August in any year. R.S.O. 1950, c. 310, s. 38. <sup>Closing library for limited period</sup>

**40.** A board may permit any part of its library buildings to be used for lectures or meetings to be held for patriotic, charitable or educational purposes, but nothing in this section shall be construed to mean that a board may furnish free light and heat to any municipal body that may occupy a room or rooms in the library or to any other tenant. R.S.O. 1950, c. 310, s. 39. <sup>Permitting use of building</sup>

**41.** The board shall submit to the municipal council or councils and in the case of a school section not situate in an organized township to the trustees of the school section, on or before the 1st day of March in each year, a detailed estimate of the several sums required for the ensuing financial year to pay, <sup>Estimates of board</sup>

- (a) the interest on any money borrowed, as hereinafter mentioned;
- (b) the amount required to be raised for the sinking fund, or to pay any instalment of principal and interest;
- (c) the expense of maintaining and managing the libraries, reading rooms, museums, evening classes, art schools and all other activities under its control;
- (d) contributions to an employees' pension fund;
- (e) retiring allowances to employees retired by reason of age or disability; and
- (f) amounts required to be paid under statutory or other authority. R.S.O. 1950, c. 310, s. 40.

**42.—(1)** Where a public library is established for a city, town, village, township, police village, township school area or school section, the council of the city, town, village or township, the council or councils of the township or townships in which the police village, township school area or school section is <sup>Annual rate</sup>

situate, or the trustees of a school section in territory without municipal organization, as the case may be, in addition to all other rates shall levy in each year on the rateable property in the city, town, village, township, police village, township school area or school section for which the public library is established, a special rate, to be called the Public Library Rate, sufficient to provide the amount estimated by the board as hereinbefore provided, but no such rate shall be levied that will yield more than 50 cents per capita of population of the municipality, police village, township school area or school section according to the last revised assessment roll except by a vote of a majority of the council or trustees present and voting thereon.

Power to  
carry out  
agreements  
to spend  
stated  
annual  
sum

(2) Notwithstanding any other provision in this section, the council of any municipality that prior to the 1st day of January, 1917, in any way whatsoever entered into any contract with any person, persons or corporation to expend annually not less than a stated sum for public library maintenance, by reason of receiving a gift, may levy and assess each year a public library rate sufficient to provide a sum to carry out the terms of the contract entered into. R.S.O. 1950, c. 310, s. 41.

Issue of  
debentures  
for public  
library  
purposes

**43.**—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a board for the purpose of acquiring a site, purchasing, erecting, or remodelling a building or buildings and, in the first instance, for obtaining books and other things required for the library, on the application of the board may be raised,

- (a) where the board is established in a municipality, by the issue of municipal debentures; and
- (b) where the board is established in a school section or union school section in territory without municipal organization, by the issue of debentures by the board of the section or union section,

and all sums required to pay off the debentures issued under clause *a* and to pay interest thereon and the expenses connected therewith shall be raised by assessment on the ratepayers of the municipality, and all sums required to pay off the debentures issued under clause *b* and to pay interest thereon and the expenses connected therewith shall be raised by assessment on the public and separate school supporters in the section or union school section.

Refusal of  
council or  
board to  
issue  
debentures

(2) If the council or the board of the section or union school section refuses to issue the debentures at the request of the public library board, the question shall be submitted to

a vote of the electors of the municipality or school section, as the case may be, in the manner provided by *The Municipal Act* in the case of a money by-law, and, if the assent of the electors is obtained, the council or the board of school trustees, as the case may be, shall raise the required sums by the issue of debentures as aforesaid but without submitting the by-law to the electors. 1955, c. 67, s. 2.

**44.** The council of any municipality may at any time make a grant in money or lands or buildings to a board for public library purposes. R.S.O. 1950, c. 310, s. 43.

Grants  
from  
municipal  
councils

(NOTE.—*As to power of public library board to receive gifts, devises or bequests, see The Mortmain and Charitable Uses Act*, R.S.O. 1960, c. 246, s. 13.)

**45.** All libraries established under this Part shall be open to the public free of charge provided, however, that the board may impose such fee as seems proper on non-residents who may desire to use the library. R.S.O. 1950, c. 310, s. 44.

No charge  
to be made  
except to  
non-  
residents

**46.** The board shall permit the public to have free access to the circulating and reference books of the library but the board may, with the approval of the Minister, prohibit free access to any particular section of the library or to any class of books. R.S.O. 1950, c. 310, s. 45.

Public  
to be  
admitted  
freely

**47.** No board shall make a rule for the establishment of an age limit for children who may receive library service. R.S.O. 1950, c. 310, s. 46.

Children  
not to be  
excluded

**48.** The teachers' institute of any inspectorate in which a public library is situate may place the books held by such institute in any public library subject to the approval of the board, and in such cases every member of such teachers' institute is entitled to use the public library on the same terms as residents of the municipality in which the library is situate. R.S.O. 1950, c. 310, s. 47.

Use of  
public  
library  
by teachers'  
institute

**49.** Every farmers' institute or women's institute may affiliate with any public library on terms to be agreed upon with the board, and in the event of such affiliation every member of such farmers' institute or women's institute is entitled to use the library on the same terms as residents of the municipality in which the library is situate. R.S.O. 1950, c. 310, s. 48.

Affiliation  
of farmers'  
institute or  
women's  
institute

**50.** Every public library heretofore established or continued as a free public library under any Act respecting public libraries is continued and is subject to the provisions of Part I and Part V of this Act. R.S.O. 1950, c. 310, s. 49.

Public  
libraries  
continued

## PART II

## PUBLIC LIBRARY ASSOCIATIONS

Incorporation of association

**51.** A public library association may be incorporated in the manner hereinafter provided, for the purpose of establishing a public library in any community situated in a municipality or school section that has no public library established under Part I of this Act. R.S.O. 1950, c. 310, s. 50.

Declaration, registration and notice to Minister

**52.** Ten or more persons, being British subjects and not less than twenty-one years of age, may form an association for establishing a public library by making a declaration in duplicate on forms obtained from the Minister, and filing one copy with an affidavit of the due execution thereof in the office of the registrar of deeds for the registry division in which the public library is to be situated, and transmitting to the Minister one copy, with affidavit, and bearing the certificate of registration. R.S.O. 1950, c. 310, s. 51.

Fee of registrar

**53.** For the filing of the declaration and for every certified copy the registrar is entitled to a fee of 50 cents. R.S.O. 1950, c. 310, s. 52.

Corporate name

**54.** The persons whose names are subscribed to the declaration, while they remain members, and all persons not under twenty-one years of age who become members of the association and while they remain so, are a body corporate to be known as "The.....Public Library Association" inserting the name of the unincorporated settlement or the village, town or city, as the case may be, in which the library is to be established, but the name of a township or county may not be used and any name chosen is subject to the approval of the Minister. R.S.O. 1950, c. 310, s. 53.

Not to establish branch libraries

**55.** A library association may not establish a branch library, but, subject to the approval of the Minister, may establish one or more distributing stations. R.S.O. 1950, c. 310, s. 54.

Who may be members

**56.** The membership shall be composed of individuals and not families or other groups of persons, and a register of the membership shall be kept showing the names of the persons, the dates of joining or of renewal of membership, and of expiration of membership, and records of fees paid, and in the register it shall be indicated which persons are twenty-one years of age or over. R.S.O. 1950, c. 310, s. 55.

**57.** Any person, regardless of age, may become a member <sup>Persons under age</sup> of the association, and all persons over fifteen years of age shall be granted membership on the payment of a uniform fee, but a special uniform fee may be fixed for children under fifteen years of age. R.S.O. 1950, c. 310, s. 56.

**58.** No person shall vote or shall be elected as a member <sup>Vote</sup> of the board who is not a British subject of the full age of twenty-one years. R.S.O. 1950, c. 310, s. 57.

**59.** Where any persons are granted free use of the library, <sup>Patrons</sup> such persons shall be considered as patrons and not as members of the association. R.S.O. 1950, c. 310, s. 58.

**60.** If from any source the association receives payment <sup>Patrons on special terms</sup> for free use of the library or for reduced fees for certain persons, the said persons shall be considered as patrons and not members of the association. R.S.O. 1950, c. 310, s. 59.

**61.** The general management, regulation and control of <sup>Board of management, how composed</sup> the library shall be vested in and exercised by a board of management, which shall be composed of not less than five and not more than nine persons. R.S.O. 1950, c. 310, s. 60.

**62.** The persons whose names are subscribed to the <sup>First election</sup> declaration of incorporation shall meet within thirty days after the filing thereof and shall elect from among their number the members of the board. R.S.O. 1950, c. 310, s. 61.

**63.** The members so elected shall hold office until their <sup>Term of office</sup> successors are elected. R.S.O. 1950, c. 310, s. 62.

**64.** Three members form a quorum for transacting the <sup>Quorum</sup> business of the board. R.S.O. 1950, c. 310, s. 63.

**65.** On the third Monday in January in each year there- <sup>Annual meeting</sup> after the members of the association shall hold their annual meeting and elect the members of the board for the year, and, if for any reason it is not found practicable to hold the annual meeting on the third Monday in January, the board shall arrange for the association to meet as soon thereafter as possible, giving notice to the members of the change of the date of meeting. R.S.O. 1950, c. 310, s. 64.

**66.** The board shall, as soon after the election as is con- <sup>President, secretary, librarian, etc.</sup> venient, elect one of its members as president, and shall also appoint a secretary, treasurer, and librarian and such other officers as may be necessary for the purposes of the association. R.S.O. 1950, c. 310, s. 65.

## Vacancies

**67.** In the case of a vacancy by death or resignation of a member, or by any cause other than the expiration of the term for which he was appointed, the remaining members of the board shall appoint a member of the association to fill the vacancy, but should the board be reduced to less than four in number, a meeting of the association shall be called for the purpose of filling the vacancies. R.S.O. 1950, c. 310, s. 66.

## Members of board not to be interested financially in business of library

**68.** A member of the board shall not transact, with the board of which he is a member, any business in which he has a pecuniary interest and a member violating the provisions of this section *ipso facto* vacates his seat and every contract or agreement entered into by the board in which any member thereof is so interested is void, but no person is disqualified from being a member of the board by reason only of being interested in a newspaper that is subscribed for or in which an advertisement is inserted by the board if payment is at the usual rates. R.S.O. 1950, c. 310, s. 67.

## Mode of giving notice of meetings

**69.** Notice of any meeting of the association may be given by mailing a letter or postal card at least three days before the date set for the meeting to each member of the association, or by posting a notice in the library and in a prominent place not in the library for a period of at least two weeks before the date set for the meeting. R.S.O. 1950, c. 310, s. 68.

## Duties and power of board as to buildings and equipment

**70.** Subject to the regulations, the board shall provide suitable accommodations for the library, and has power to procure, erect or rent buildings for that purpose, and to purchase books, periodicals, newspapers and other reading matter for the library. R.S.O. 1950, c. 310, s. 69.

## Rules

**71.** The board shall make rules for the management and use of the library and reading rooms and for conducting the business of the board, for holding regular and special meetings, for defining the duties of the officers of the board, and the fees to be paid by members, and generally for such other matters, not inconsistent with this Act or with the regulations, as may be necessary for promoting the usefulness of the public library. R.S.O. 1950, c. 310, s. 70.

## Minutes

**72.** Minutes of all the proceedings of the board shall be kept and entered in books to be provided for that purpose by the board. R.S.O. 1950, c. 310, s. 71.

## Accounts

**73.** The board shall keep distinct and regular accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited for the year before the annual meeting of the association by two members of the association not members



of the board, to be appointed by the chairman of the board.  
R.S.O. 1950, c. 310, s. 72.

**74.** Subject to the regulations, an annual report shall be transmitted to the Minister on forms supplied for the purpose.  
R.S.O. 1950, c. 310, s. 73.

**75.** All books and records of the library are subject to the inspection of the Minister or anyone appointed for the purpose of inspection by the Minister. R.S.O. 1950, c. 310, s. 74.

**76.**—(1) The Minister may effect a dissolution of a public library association where,

(a) the membership does not include five persons who are of the full age of twenty-one years and five other persons; or

(b) no board has been organized for a period of one year.

(2) A public library association *ipso facto* becomes dissolved where,

(a) a board fails or neglects to keep the library open for one year;

(b) a board fails to furnish an annual report as required by this Act or by the regulations, for two consecutive years.

(3) After the dissolution of the corporation, the Minister may take possession of all its books, magazines and periodicals and dispose of them as he may deem proper, but nothing herein confers any authority or control over any land belonging to a board or library association. R.S.O. 1950, c. 310, s. 75.

**77.** Where the establishing of a public library under Part I is proposed, the association may, at its annual meeting or at a special meeting to be called for the purpose, by resolution declare that its assets and property shall be transferred to the public library board after the passing of a by-law under Part I, and the board of the association shall transfer the assets and property to the public library board appointed under Part I as directed in the resolution of the association, and after such transfer the association is dissolved. R.S.O. 1950, c. 310, s. 76.

**78.** Where a library or a collection of books exists that was the property of an association that has been dissolved under this Part, and a public library has been established under Part I, the Minister may transfer to the public library board appointed under Part I the books of the former association

and may transfer any money received as insurance on books of the former association that were destroyed or damaged by or through fire, and the custodian of the books and magazines or money or both shall transfer the said books or money or both as instructed by the Minister. R.S.O. 1950, c. 310, s. 77.

Present  
libraries  
continued

**79.** Every public library heretofore established or continued as a public library of a public library association under any Act respecting public libraries or mechanics' institutes is continued, and is subject to the provisions of Part II and Part V of this Act. R.S.O. 1950, c. 310, s. 78.

### PART III

#### COUNTY AND DISTRICT LIBRARY CO-OPERATIVES

Establish-  
ment, in  
counties

**80.** The council of a county, upon receipt of a petition signed by the duly authorized officers of at least 50 per cent of the total number of library boards and boards of management established under this Act within the county, may, after the approval of the petition by the Minister, pass a by-law establishing such boards as a county library co-operative, to be known as "The.....County Library Co-operative". R.S.O. 1950, c. 310, s. 79.

In territorial  
districts

**81.** The Minister, upon receipt of a petition signed by the duly authorized officers of at least five library boards and boards of management established in a territorial district, may establish such boards as a district library co-operative to be known as "The.....District Library Co-operative". R.S.O. 1950, c. 310, s. 80.

Regional  
library  
co-operative

**82.** The Minister, upon the receipt of a petition of the boards of two or more district library co-operatives, may establish a regional library co-operative and, upon the establishment of a regional library co-operative, the uniting district co-operatives are dissolved and their assets and liabilities are assumed by the regional library co-operative. 1957, c. 100, s. 2.

Membership

**83.** In addition to the library boards and boards of management originally constituting a co-operative, any other library boards, boards of management, school boards and such other organizations as the Minister may approve, within the county or territorial district, may become members of the co-operative by agreement with the board of the co-operative, and the agreement shall be filed with the Minister. R.S.O. 1950, c. 310, s. 81.

**84.**—(1) The management, regulation and control of a library co-operative are vested in a board which is a corporation known as "The.....County (or District or Regional) Library Co-operative Board" (*inserting a name selected by the board and approved by the Minister*) and the board is responsible to the member organizations of the co-operative.

(2) The board of a county library co-operative shall be composed of the warden of the county and six members appointed by the county council, three of whom shall be members of the county council.

(3) The board of a district library co-operative shall be composed of four members elected by the member organizations and three members appointed by the Minister.

(4) The board of a regional library co-operative shall be composed of two members from each territorial district within the jurisdiction of the regional library co-operative elected by the member organizations in the territorial district and such member or members as the Minister may appoint.

(5) The board of each member organization of a library co-operative shall elect two official delegates whose duties are to elect members and fill vacancies in the elected membership of a library co-operative board and to vote on questions submitted to any meeting of the library co-operative with its member organizations.

(6) The meeting of the official delegates of member organizations to elect the first board of the newly-established district or regional library co-operative and the first meeting of the board of a newly established library co-operative shall be called forthwith by the Director of Provincial Library Service.

(7) The annual meeting of a library co-operative board and its member organizations shall be held at such time and place as may be determined by the library co-operative board.

(8) Except in the case of a newly-established library co-operative, a member of a library co-operative board shall assume office on the 1st day of January of the year for which he is elected or appointed and shall continue in office for a period of one year. 1957, c. 100, s. 3.

**85.** The purpose of a library co-operative is to purchase and distribute books for circulation by its member organizations. R.S.O. 1950, c. 310, s. 83.

## PART IV

## COUNTY LIBRARIES

Establish-  
ment

**86.**—(1) Where at least 75 per cent of the municipalities forming part of a county for municipal purposes request the county to establish a county library service, the council of the county may by by-law establish a county library service for all such municipalities.

Request  
for estab-  
lishment

(2) No request of a local municipality for the establishment of a county library service shall be acted on unless the request is authorized by a favourable vote of a majority of the members of the council of the local municipality.

Approval  
of  
Minister

(3) A by-law passed by the council of a county under this section is not effective until approved by the Minister and, when so approved, is effective on the 1st day of January of the year following unless otherwise provided in the by-law.

Dissolution  
of public  
library  
boards, etc.

(4) When a county library service is established, every public library board, public library association and county library co-operative established for a municipality or any part thereof that is included in the county library service is thereby dissolved and the assets and liabilities of such boards are thereby vested in and assumed by the county library board unless otherwise provided in the by-law establishing the county library service. 1959, c. 82, s. 6, *part*.

County  
library  
board

**87.**—(1) The general management, regulation and control of a county library service are vested in a board which is a corporation known as "The.....(*inserting the name of the county*) County Library Board".

Composition  
of board

(2) A county library board shall be composed of the warden of the county and six members appointed by the county council, three of whom shall be members of the county council, who represent a local municipality included in the county library service and three of whom shall be British subjects, over twenty-one years of age and residents of the municipalities included in the county library service who are not members of the council.

Term of  
office of  
members  
other than  
councillors

(3) The members of the board who are not members of the county council shall hold office for three years, except that, when appointments are made to a newly-established board, one member shall be appointed for one year, one for two years and one for three years.

Appoint-  
ments after  
first year

(4) The council of the county at the first meeting of council in each year after the board is established shall appoint three

members of the council and one other qualified person as members of the board.

(5) Each member shall hold office until the 31st day of <sup>Term of</sup> December of the last year for which he is appointed and until <sup>office</sup> his successor is appointed.

(6) Where a vacancy occurs from any cause before the <sup>Vacancies</sup> expiration of the term of office for which a member has been appointed, the council of the county shall appoint a qualified person to fill the vacancy for the unexpired portion of the term of office.

(7) The members of the board shall serve without remuneration but each member shall be paid his proper travelling and <sup>Remuneration and expenses of members</sup> living expenses incurred in the work of the board.

(8) The first meeting of a newly-established board shall <sup>First meeting</sup> be called by the clerk of the county forthwith after the members of the board have been appointed. 1959, c. 82, s. 6, *part*.

**88.** Sections 12, 22 to 41 and 45 to 50 of Part I apply <sup>Application of Part I</sup> *mutatis mutandis* to the board and any reference to municipal council therein shall be deemed to be a reference to the county council that established the county library service. 1959, c. 82, s. 6, *part*.

**89.** Every county library board shall operate and maintain a library as a branch in each municipality that operated <sup>Branch libraries</sup> a public library prior to the date upon which that municipality became part of the county library service. 1959, c. 82, s. 6, *part*.

**90.** The Board shall appoint a librarian who shall, <sup>Librarian</sup>

- (a) hold a Class A, B or C certificate of librarianship issued by the Minister;
- (b) be the chief executive officer of the board; and
- (c) attend the meetings of the board or designate a person to represent him. 1959, c. 82, s. 6, *part*.

**91.** A county by-law establishing a county library service <sup>County library rate</sup> shall provide for the levying of an annual rate upon the equalized assessment of the municipalities that form part of the county for municipal purposes and that are included in the county library service sufficient to meet the amount estimated by the board to meet its operating costs and the principal and interest payable under any debentures issued for the purposes of the county library service, and such rate shall form part

of the county rates for such municipalities. 1959, c. 82, s. 6.  
*part.*

## PART V

### GENERAL PROVISIONS

Regula-  
tions

**92.** Subject to the provisions of any statute in that behalf, the Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) for the apportionment and distribution of all money appropriated by the Legislature for library purposes;
- (b) for delegating to the Minister power to make special grants to any board;
- (c) for the establishment, organization, management, accommodations and rules of public libraries;
- (d) for the establishment, organization, management and courses of instruction of library schools, examinations of students, and for the issuance of certificates to successful students at library schools;
- (e) governing the qualifications of librarians and assistants and library clerks in public libraries;
- (f) for conducting the examinations and practical tests prescribed by the regulations and settling the results thereof;
- (g) for granting temporary, interim, special permanent and renewed certificates of qualification to librarians and assistants;
- (h) for accepting such courses and examinations as the Minister may deem adequate for the academic and professional training of librarians and assistants;
- (i) providing for the suspension and cancellation of certificates of qualification granted by the Department;
- (j) for the appointment of an examination board for work in connection with examinations in librarianship and in the general education of candidates wishing to qualify as librarians and assistants, and for prescribing the fees to be paid to members of the examination board, other examiners and presiding officers;
- (k) for the management, use and circulation of the travelling libraries of the Department, and for prescribing

the terms upon which they may be obtained by borrowers;

- (l) for the management and organization of library institutes. R.S.O. 1950, c. 310, s. 84.

**93.** Where a board in any year fails to comply with this Act or the regulations, the Minister may withhold the whole or any part of the legislative grant payable to the board for that year. R.S.O. 1950, c. 310, s. 85; 1957, c. 100, s. 4.

**94.** Subject to the regulations, the Minister may authorize to be paid out of any money appropriated for library purposes,

- (a) grants to boards for public libraries, branch public libraries, library associations and library co-operative boards;
- (b) salaries and expenses of officers of the Department employed in work in the interest of libraries in general, and in giving special instructions to boards and librarians;
- (c) the cost and preparation of books, pamphlets, blueprints, plans of library buildings and of library equipment, engravings, models, manuscripts, photographs, lantern slides, moving-picture films, phonograph records, library supplies, library equipment, apparatus for demonstrating and illustrating library methods, and of such other apparatus or things for libraries or for promotion, organization and advancement of libraries as the Minister may deem necessary and useful;
- (d) the cost of experimenting in the interest of new and improved library methods, and of purchasing the copyright or copyright privileges of any publication useful in the promotion of librarianship and of libraries;
- (e) the cost of library publicity in the interest of libraries as institutions for popular education, and for the purpose of encouraging the establishing of libraries, including cost of publication, preparation of manuscripts, engravings, and the fees and expenses of speakers;
- (f) the expenses of librarians and other library experts to meet in conference with officials of the Department for the purpose of discussing library affairs, and of any librarian or other library expert to represent the Department at a convention, at a library, or at any place for the promotion of library interests;

- (g) expenses incurred in holding meetings of library institutes;
- (h) the cost of fees and expenses of members of an examining board in connection with examination work and with meetings for the discussion of examinations;
- (i) the cost of storage, packing and shipping of books upon which the Minister holds a claim. R.S.O. 1950, c. 310, s. 86; 1957, c. 100, s. 5.

Establishment and maintenance of travelling libraries

**95.**—(1) Subject to the regulations, the Minister may establish and maintain travelling libraries out of such sums as may be appropriated for that purpose, and may purchase books, pamphlets, pictures, phonograph records, maps, globes, charts, lantern slides, moving-picture films and lanterns and appliances, objects and specimens for illustrating the arts, sciences and literatures, book-cases and other containers, and library equipment, and may pay for transportation, rent and storage and librarian's service at distributing centres, and for publicity and for cataloguing, classifying and annotating lists of books, and may employ and pay assistants to aid in circulating the libraries and to operate apparatus, demonstrate and lecture, and may pay the travelling expenses of the assistants and of persons appointed to perform librarian's service.

Extending use of travelling library to certain institutions

(2) Subject to the regulations, the Minister may extend the use of travelling libraries to schools, colleges, universities, other educational institutions and charitable institutions in the Province, and may procure the necessary requirements and organization to render special service to such schools and other institutions. R.S.O. 1950, c. 310, s. 87.

Establishment and maintenance of courses of home study

**96.** Subject to the regulations, the Minister may establish a bureau of home study for the benefit of the people of the Province, and may pay the cost thereof from any money voted by the Legislature for public libraries or for travelling libraries, and may pay for,

- (a) the compilation of reading courses by the specialists;
- (b) the compilation and annotation of bibliographies;
- (c) written lessons of instruction for study and practice. R.S.O. 1950, c. 310, s. 88.

Application of appropriation for library training schools

**97.** Subject to the regulations, money appropriated for library school purposes may be applied under the direction of the Minister, in providing schools and classes for the training of librarians and assistants, for holding examinations of persons desiring to qualify in librarianship and as assistants in



libraries, and providing accommodation for such schools, classes and examinations, for the payment of the fees and expenses of the instructors and examiners, for providing supplies and equipment for such schools, classes and examinations, for the payment of the travelling expenses of students and travelling and board and lodging expenses of students holding positions in small libraries when the Minister deems it necessary or expedient, and for such other purposes in connection with the qualifications of librarians and assistants in libraries and the promotion of their efficiency and usefulness, as the Minister may deem necessary and expedient. R.S.O. 1950, c. 310, s. 89.

**98.** Subject to the regulations, the Minister may,

Provision  
for establish-  
ment and  
meetings of  
library  
institutes

- (a) provide for the establishment of library institutes and for the holding of the meetings thereof;
- (b) employ library experts to attend library institute meetings and pay their travelling and other necessary expenses in going to, staying at and returning from the meetings, but nothing shall be paid to them for services;
- (c) pay the travelling and other necessary expenses of one delegate from each board in attending a meeting of the institute. R.S.O. 1950, c. 310, s. 90.

**99.** The judge of the county or district court, upon the request of the board of any public library within his jurisdiction, may appoint the janitor to be a special constable whose special duty it shall be to preserve the peace in the rooms of the library and in the building in which the library is situate, and to prevent the stealing, injuring or destroying of the property of the board or association, and to apprehend offenders, and he has generally all the powers and privileges and is liable to all the duties and responsibilities that pertain to the office of constable. R.S.O. 1950, c. 310, s. 91.

Special  
constable

**100.** Any person who wilfully interrupts or disquiets a public library, reading room, museum, art school or any class in connection therewith, by rude or indecent behaviour, or by making a noise either within the building or so near thereto as to disturb the persons using the same, is guilty of an offence and on summary conviction is liable, for each offence, to a fine of not more than \$20. R.S.O. 1950, c. 310, s. 92.

Misconduct  
in public  
library

## FORM 1

(Sections 4, 5 and 6)

## PETITION

To the council of .....

We, the undersigned electors of the.....  
 of....., respectively, pray that a public library may be  
 established in this municipality under *The Public Libraries Act*.

R.S.O. 1950, c. 310, Form 1.

## FORM 2

(Sections 4, 5 and 6)

## BY-LAW FOR ESTABLISHING A PUBLIC LIBRARY

A by-law to provide for the establishment of a public library in the  
 .....of.....

Whereas.....electors have petitioned the council of the.....  
 of....., praying for the establishment of a public  
 library under *The Public Libraries Act*.

Be it therefore enacted by the council that:

1. In case the assent of the electors is given to this by-law, a public  
 library be established in this municipality in accordance with the pro-  
 visions of *The Public Libraries Act*.

2. The votes of the electors shall be taken on this by-law on.....  
 the.....day of....., 19....., commencing at.....o'clock in  
 the forenoon and continuing until.....o'clock in the afternoon, at the  
 undermentioned places: [*Here insert (1) the wards; (2) the polling sub-  
 divisions; (3) the places for holding the poll and the names of the deputy  
 returning officers*].

3. On the.....day of.....next, at his office in the.....  
 at.....o'clock in the.....noon, the mayor (*or reeve or as the case  
 may be*), shall appoint in writing, signed by him, two persons to attend  
 at the final summing up of the votes by the clerk, and one person to attend  
 at each polling place on behalf of the persons desirous of promoting, and  
 a like number on behalf of the persons desirous of opposing the passing of  
 this by-law.

4. The clerk shall attend at the.....at the hour of.....  
 o'clock in the.....noon, on the.....day of....., 19.....,  
 to sum up the number of votes given respectively for or against the by-law.

A. B.,  
 Mayor (*or Reeve*).

C. D.,  
 Clerk.

Passed the.....day of....., 19.....

## Notice by Clerk

The above is a true copy of a proposed by-law which will be taken  
 into consideration by the council of.....after one month from the  
 .....day of....., 19....., being the date of the first publica-  
 tion thereof, and the polls for taking the votes of the electors will be  
 held at the hour, day and places named in the by-law.

R.S.O. 1950, c. 310, Form 2.

## FORM 3

(Sections 8 (1), 9 (1))

## PETITION FOR ESTABLISHMENT OF PUBLIC LIBRARY IN SCHOOL SECTION

PETITION for the establishment of a Public Library in School Section  
 .....(or School Sections) in.....

We, the undersigned, constituting a majority of the public and separate school supporters in the section (or sections) pray that a public library may be established in and for the school section (or sections) under and subject to the provisions of *The Public Libraries Act*.

Dated this.....day of....., 19.....

Signatures

Addresses

Witness: }

Province of Ontario,  
 County (or District) of..... }  
 To Wit.

I.....of the.....of.....,  
 (occupation)....., make oath and say:

1. That I was actually present and did see the above petition signed by the persons whose names are thereto subscribed as petitioners.

2. That I believe the petition to have been signed in good faith and that the signatories are all of them supporters of public or separate schools.

3. That I am a subscribing witness to the petition.

Sworn before me at the..... }  
 of.....in the County (or }  
 District) of..... }  
 this.....day of....., 19..... }

A Commissioner, etc.  
 (or J.P.)

I.....of the.....of.....,  
 being the clerk of the township of.....(or in territory without  
*municipal organization*) being the secretary of the public school (or separate  
 school) board in school section No.....in the  
 township of.....(or as the case may be) do certify:

That I have examined the above petition and that the names subscribed thereto are the names of persons entitled to be and who are assessed as public and separate school supporters in school section No.....in the township of.....

That the number of names subscribed to the petition constitute a majority of the public and separate school supporters in the section.

Dated this.....day of....., 19.....

.....  
 Clerk of the Township (or secretary of the board of  
 public or separate schools)

R.S.O. 1950, c. 310, Form 3.



## CHAPTER 326

## The Public Officers Act

1. No person shall be employed in any public office in Ontario who is not a British subject by birth or naturalization, but nothing in this section prevents the employment of any person for a temporary purpose by the Government of Ontario or by any commission acting for or on behalf of the Crown, when in the opinion of the Government or of such commission such employment is in the public interest. R.S.O. 1950, c. 311, s. 1.

Public officer  
to be British  
subject

2.—(1) It is not necessary, upon the demise of the Sovereign, to renew any commission, by virtue whereof any public officer or functionary in Ontario held his office or profession, during the previous reign, but a proclamation shall be issued by the Lieutenant Governor, authorizing all persons in office who held commissions under the late Sovereign and all functionaries who exercised any profession by virtue of any such commissions, to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of allegiance before the proper officer or officers thereunto appointed.

Commissions  
continued on  
demise of the  
Sovereign

(2) The proclamation having been issued and oath taken, every public officer and functionary shall continue in the lawful exercise of the duties and functions of his office or profession as fully as if appointed *de novo* by commission derived from the Sovereign for the time being, and all acts and things *bona fide* done and performed by such incumbents in their respective offices and in the due and faithful performance of their duties and functions between the time of the demise and the proclamation so to be issued, the oath of allegiance being always duly taken, shall be deemed to be legally done and valid accordingly. R.S.O. 1950, c. 311, s. 2.

Continuance  
in duty  
and validity  
of acts

3. Nothing in section 2 prejudices or in anywise affects the rights or prerogatives of the Crown with respect to any office or appointment derived or held by authority from the Crown, nor prejudices or affects the rights or prerogatives thereof in any other respect whatsoever. R.S.O. 1950, c. 311, s. 3.

Saving as to  
rights of the  
Crown

Oaths of  
allegiance  
and office

4. It is not necessary for any person appointed to any office in Ontario, or for any person admitted, called or received as a barrister, notary public or solicitor, to make any declaration or subscription, or to take or subscribe any other oath than the following oath:

I, ....., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning Sovereign for the time being*), her heirs and successors according to law. So help me God.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R.S.O. 1950, c. 311, s. 4.

Form of  
oath of  
allegiance  
to be used

5. Except where otherwise specially provided, the form hereinbefore set forth, and no other, is the oath of allegiance to be administered to and taken by every person in Ontario, who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any Act, desires to take an oath of allegiance. R.S.O. 1950, c. 311, s. 5.

Who may  
administer  
oath of  
allegiance

6. All magistrates and all other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of Ontario. R.S.O. 1950, c. 311, s. 6.

Security to  
be given  
by certain  
public  
officers

7.—(1) Security by or on behalf of every person appointed to any office or employment, or commission in the public service of Ontario, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Ontario, and who by reason thereof is required to give security, shall be furnished within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), in such sum and in such manner as is approved of by the Lieutenant Governor in Council or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him and for his duly accounting for all public moneys entrusted to him or placed under his control.

Liability of  
sureties of  
public officer  
for acts of  
deputy

(2) Where a deputy is appointed by a person holding an office, any security required by law and given on behalf of such person, extends to and includes the acts and omissions of the deputy, whether appointed before or after the giving of the security.

(3) The liability of the sureties, and of the officer appointing the deputy, is the same as regards the performance of the duties of the office by the deputy, as in regard to the performance thereof by the person holding the office, and such liability extends to and covers all acts and omissions of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as exist in regard to the security given by public officers.

(4) The Lieutenant Governor in Council may, notwithstanding this section, require new security to be furnished by any deputy on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions as that required by law for the due performance of the duties of the officer whom the deputy represents. R.S.O. 1950, c. 311, s. 7.

8. The Lieutenant Governor in Council may prescribe the form of the security required to be furnished under any statute by a public officer or by any class of public officers, and may authorize the Treasurer of Ontario to enter into agreements in Her Majesty's name with any corporation authorized to carry on the business of fidelity insurance in Ontario for the furnishing of security for any public officer, or for public officers generally, or for any class or classes of public officers. R.S.O. 1950, c. 311, s. 8.

9. Nothing in the preceding sections applies to any treasurer or other officer of a municipal or school corporation having the custody of moneys of such corporation. R.S.O. 1950, c. 311, s. 9.

10. The Treasurer of Ontario shall cause to be prepared and laid before the Assembly, within fifteen days after the opening of every session thereof, a detailed statement of all securities furnished on behalf of public officers, and of any changes that have been made in reference to such securities since the last statement laid before the Assembly. R.S.O. 1950, c. 311, s. 10.

11. The security furnished on behalf of any public officer in pursuance of this or any other Act requiring security enures as well for the benefit of Her Majesty as for that of the persons for whose benefit it is provided by the Act requiring the security or otherwise that it shall enure. R.S.O. 1950, c. 311, s. 11.

Limitation  
of actions  
against  
sureties of  
public  
officers

**12.** Where a person is surety for a public officer or for any person appointed to any office, employment or commission in the public service of Ontario, or to any office or employment of public trust, whether the suretyship is for the benefit of Her Majesty or enures for the benefit of any person injured by the default or misconduct of the officer or other person, and an action is brought against the surety, no damages shall be recovered except as to matters and causes of action that have arisen within ten years next before the commencement of the action. R.S.O. 1950, c. 311, s. 12.

County court  
and division  
court clerks  
and  
surrogate  
court  
registrars

**13.** Every clerk of a county court, every registrar of a surrogate court and every clerk of a division court for a division embracing a city or part of a city, shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, showing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on or before the 15th day of January in each year make up a statement under oath of such fees, charges and emoluments to and including the 31st day of December of the previous year and deliver or mail it to the Provincial Secretary. R.S.O. 1950, c. 311, s. 13.

Particulars  
in returns  
by public  
officers

**14.** Every public officer who is by this or any other Act required to make a return of the fees and emoluments of his office to any department of the Government, or to any officer, shall include in his return,

- (a) the aggregate amount of all fees and emoluments earned by him during the preceding year by virtue of his office;
- (b) the aggregate amount of all fees and emoluments actually received by him during the preceding year by virtue of his office;
- (c) the actual amount of the disbursements during the same period in connection with his office, and such other particulars as the Lieutenant Governor in Council prescribes. R.S.O. 1950, c. 311, s. 14.

Procedure  
against per-  
son who has  
ceased to be  
a public  
officer for  
retaining  
moneys,  
books, etc.

**15.** Where a person who has been, but has ceased to be, a public officer, retains possession of any accounts, moneys, books, papers, matters or things that have been in his possession as such officer, a judge of the Supreme Court or the judge of any county or district court, upon application of the successor in the office of such person or of the Attorney General or of some person by his authority, and on notice to the person affected, may order that such accounts, moneys, books, papers, matters and things be forthwith delivered to



such successor in office or to such person as the judge directs, and in default that such person be committed to the common jail of the county or district in which he resides for such period as the judge directs, or until he complies with the directions of the order, and may authorize the sheriff of any county or district in which the same may be found to forthwith seize and take such accounts, moneys, books, papers, matters and things, and deliver them to the persons to whom they have been directed to be delivered. R.S.O. 1950, c. 311, s. 15.

**16.** Where by any general or special Act any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting, and no other person is by law empowered to do or perform such act, matter or thing, then he or any interested person may apply, upon summary motion, to a judge of the Supreme Court, who may appoint some disinterested person to do or perform the act, matter or thing in question. R.S.O. 1950, c. 311, s. 16.

Procedure when public officer interested in question before him

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## CHAPTER 327

## The Public Officers' Fees Act

## 1. In this Act,

Interpre-  
tation

- (a) "net income" means the excess of all fees and emoluments earned during the calendar year by an officer, by virtue of all his offices, after deducting such disbursements incident to the business of the office as may be allowed by the proper officer including the salaries of clerks and other employees;
- (b) "proper officer" means the inspector appointed under any Act who has supervision over the office in question, or any person designated by the Lieutenant Governor in Council. R.S.O. 1950, c. 312, s. 1.

2.—(1) Every officer to whom this Act applies who is paid by fees or other emoluments and not by salary only shall pay to the treasurer of Ontario a percentage of the fees and emoluments earned by him during the calendar year as provided by this Act and by any regulation made thereunder.

Percentage  
of fees  
payable to  
Province

(2) When more than one person has held an office in a calendar year, each shall pay a proportionate part based upon his net income and the time he held office. R.S.O. 1950, c. 312, s. 2.

Apportion-  
ment

3.—(1) On or before the 15th day of January in each year every officer to whom this Act applies shall transmit to the proper officer a return under oath of all fees and emoluments, including his salary, if any, earned in respect of his office, whether actually received or not, and also of the disbursements of his office during the calendar year ending on the 31st day of December previous to such return, and shall with such return transmit by marked cheque payable to the Treasurer of Ontario the percentage payable to the Government under this Act.

Returns  
to be made  
on or before  
15th  
January

(2) When a person ceases to hold office during a calendar year, he shall make a return and remit a cheque for the due proportion of the percentage within thirty days from the time he ceases to hold office.

When ceas-  
ing to hold  
office

(3) Upon the death of a person holding office, his representatives shall make a return within thirty days from the date of death and pay the due proportion of the percentage.

Where officer  
dies

Attorney  
General  
may require  
special  
return

(4) When so required by the Attorney General, any officer shall make at any time a special return and shall forthwith pay over the due proportion of the percentage as of the date of such return. R.S.O. 1950, c. 312, s. 3.

Allowances  
for salary  
to be  
approved

4.—(1) No allowance shall be made for any salary to any clerk or other employee until the proper officer has certified to the necessity for his employment and the reasonableness of the salary paid.

Application  
of section

(2) This section applies to every person holding the office of Crown attorney, clerk of the peace, sheriff, local registrar of the Supreme Court, deputy registrar, clerk of the county or district court, registrar of the surrogate court, and to every other officer designated by the Lieutenant Governor in Council. R.S.O. 1950, c. 312, s. 4.

Crown  
attorney

5. Every Crown attorney, whether he is or is not the clerk of the peace, and every clerk of the peace, is entitled to retain to his own use in each year his net income up to \$6,000, but shall pay to the Treasurer of Ontario 50 per cent of the excess over that sum. R.S.O. 1950, c. 312, s. 5.

Supreme  
Court,  
county  
court and  
surrogate  
court fees

6.—(1) Every local registrar of the Supreme Court, deputy registrar, county or district court clerk and registrar of the surrogate court, whether holding one or more of such offices, and every sheriff is entitled to retain to his own use in each year his net income up to \$4,000.

Percentages  
payable on  
net income

(2) On the net income of each year over \$4,000, he shall pay to the Treasurer of Ontario,

- (a) on the excess over \$4,000 up to \$6,000, 50 per cent;
- (b) on the excess over \$6,000, 90 per cent. R.S.O. 1950, c. 312, s. 7 (1, 2).

Division  
court  
clerks and  
bailiffs

7.—(1) Every division court clerk and every division court bailiff is entitled to retain to his own use in each year all the gross fees and emoluments earned by him in that year up to,

- (a) \$9,000 for a division court clerk; and
- (b) \$6,000 for a bailiff. R.S.O. 1950, c. 312, s. 8 (1); O. Reg. 1/58, reg. 1 (1).

Clerks

(2) Of all the gross fees and emoluments earned by any division court clerk in each year he shall pay to the Treasurer of Ontario, on the excess over \$9,000, 60 per cent thereof. 1953, c. 89, s. 1, *part*; O. Reg. 1/58, reg. 1 (2).

(3) Of all the gross fees and emoluments earned by any <sup>Bailiffs</sup> division court bailiff in each year he shall pay to the Treasurer of Ontario,

(a) on the excess over \$6,000 up to \$10,000, 10 per cent thereof;

(b) on the excess over \$10,000, 20 per cent thereof.  
1953, c. 89, s. 1, *part.*

8. The money paid to the Treasurer of Ontario forms <sup>Application of moneys</sup> part of the Consolidated Revenue Fund. R.S.O. 1950, c. 312, s. 9.

9. The Lieutenant Governor in Council may direct the <sup>Salaries of sheriffs in district</sup> payment out of the Consolidated Revenue Fund to the sheriff and other officers of any provisional judicial district of such several sums of money by way of salary or otherwise and in addition to the fees that are received by such officers as are thought reasonable for the services performed by them. R.S.O. 1950, c. 312, s. 10.

10. The Lieutenant Governor in Council may make regu- <sup>Regulations for management of offices</sup> lations for the management of the offices of all public officers, and may confer upon any inspector such powers as are deemed necessary for the carrying out of this Act and of the Acts under which such officers are appointed or under which they are required to discharge their duties. R.S.O. 1950, c. 312, s. 11.

11. Where it appears by a return to the Lieutenant <sup>Minimum salary for certain officers</sup> Governor or to any department of the Government that in any year a sheriff, local registrar of the Supreme Court, deputy registrar, county or district court clerk, and registrar of the surrogate court, whether holding one or more of the above offices, has derived from the fees, emoluments and salary, if any, of his office, after deducting necessary disbursements, an income which does not exceed \$3,200, or the amount at which he is commuted, as the case may be, there may, on the report of the Inspector of Legal Offices, be paid to such officer out of the Consolidated Revenue Fund an amount sufficient to make up the income for the year to \$3,200, or to the amount at which he is commuted, as the case may be, if the Lieutenant Governor in Council so directs. R.S.O. 1950, c. 312, s. 12; 1951, c. 72, s. 2.

12.—(1) The Lieutenant Governor in Council may from <sup>Alteration of percentages</sup> time to time amend or repeal the amount of percentages payable under this Act by any officer to whom this Act

applies, and the amount of net income or gross income that any such officer is entitled to retain to his own use.

Alterations  
of fees

(2) The Lieutenant Governor in Council may amend or repeal any fee payable under any Act to any officer to whom this Act applies. R.S.O. 1950, c. 312, s. 13.

Compulsory  
retirement  
of officers

**13.** An officer, other than a sheriff, to whom this Act applies shall cease to hold office upon attaining the age of eighty years and the appointment of his successor. R.S.O. 1950, c. 312, s. 14.

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## CHAPTER 328

**The Public and Other Works Wages Act**

**1.** If any contractor with the Crown, or any subcontractor, in the construction of any public work let under contract by the Crown, makes default in the payment of the wages of any foreman, workman or labourer employed on such work, or in the payment of any sum due by him for the labour of any such foreman, workman or labourer, or of any team employed on such work, and if a claim therefor is filed in the office of the Minister entering into such contract on behalf of the Crown, not later than two months after the same becomes due, and satisfactory proof thereof is furnished, the Crown may pay the claim to the extent of the amount of all moneys or securities in the hands of the Crown for securing the performance of the contract at the time of the filing of the claim. R.S.O. 1950, c. 313, s. 1.

Payment of wages of employees of contractors with the Crown or their sub-contractors

**2.** The Minister may, in writing, require any such contractor or subcontractor to file in the office of the Minister, not later than the fifteenth day of each month, a list showing the names, rates of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman, labourer or team employed by the contractor or subcontractor during the previous month, and such list shall be attested upon the oath of the contractor or subcontractor or his authorized agent. R.S.O. 1950, c. 313, s. 2.

List of employees, etc., to be furnished when required

**3.—(1)** Every contractor or subcontractor who makes default in forwarding such list shall incur a penalty of not less than \$10 or more than \$100 for every day during which default continues.

Penalty for failure to furnish list

**(2)** The amount of such penalty, within the above limits, shall be determined by the Minister under whom the work is being executed, and may be deducted out of the money in the hands of the Crown deposited by or owing to such contractor and shall be vested in the Crown. R.S.O. 1950, c. 313, s. 3.

How penalty enforceable

**4.** Where default is made by a subcontractor in furnishing such list, the penalty for such default, hereinbefore provided, may also be recovered, with costs, at the suit of the Crown in any court of competent jurisdiction. R.S.O. 1950, c. 313, s. 4.

Case of default by sub-contractor

Retaining  
portion of  
legislative  
grant and  
paying  
wages, etc.,  
thereout

5.—(1) Where any subsidy, advance, loan or bonus of money is authorized by the Legislature to be granted to any company or person towards the construction of any railway or other work it shall, in the absence of special provision by the Legislature to the contrary, be a condition of the grant that so much of the money may be retained as the Lieutenant Governor in Council thinks proper to secure the payment of claims for wages of persons employed on such railway or work whether by such company or by any contractor or subcontractor, or for sums due or to become due for labour of persons or teams so employed.

When to  
be paid

(2) If any such claim remains unpaid for thirty days after notice thereof has been served upon the Minister charged with the duty of seeing that the conditions upon which such aid is granted are duly carried out, the Lieutenant Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained. R.S.O. 1950, c. 313, s. 5.

Liability of  
companies  
for wages  
due by con-  
tractors, etc.

6.—(1) Every company incorporated under any Act of the Legislature is liable for the payment of the wages of the foremen, workmen, labourers or teams employed in the construction of any work in Ontario done by or for the company, whether directly under the company or through the intervention of any contractor or subcontractor.

Saving of  
other rights

(2) Nothing herein prejudices or affects the right of any person against any contractor or subcontractor with whom he has contracted under any other Act or law in force in Ontario. R.S.O. 1950, c. 313, s. 6.

Notice of  
unpaid  
wages

7.—(1) Where any such foreman, workman or labourer is not paid his wages for himself or his team by any contractor or subcontractor by whom he has been employed, a notice stating the name of the claimant and the amount of wages claimed, the rate of such wages, the nature and amount of work done, the time when, the place where, and the name of the contractor or subcontractor, superintendent or foreman under whom such work was done, may be served upon the company not later than two months after such wages are earned.

Limitation  
of time for  
action

(2) The notice shall be followed by the commencement of a suit in a court of competent jurisdiction for the collection of such wages within thirty days after the service of the notice, otherwise the liability mentioned in section 6 ceases.

Service of  
notice or  
process

(3) The notice mentioned in subsection 1, and any summons, notice, order or other process required to be served



upon the company for the prosecution of such claim, may be served upon the president, vice-president, secretary, managing director, superintendent, or engineer, or any recognized officer representing the company, or by leaving it with any adult person at the office or residence of any of them. R.S.O. 1950, c. 313, s. 7.

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## CHAPTER 329

## The Public Parks Act

1.—(1) A park, or a system of parks, avenues, boulevards and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided. Establishment of parks

(2) Subject to subsection 5, if a petition, praying for the adoption of this Act, is presented to the council of any county or city signed by not less than 500 electors, or to the council of any town or township signed by not less than 200 electors, or to the council of any village signed by not less than 75 electors, the council may pass a by-law giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by *The Municipal Act*. Petition and by-law therefor

R.S.O. 1960,  
c. 249

(3) If the majority of the votes is in favour of the by-law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be. Idem

(4) If the vote is adverse, no by-law for the same purpose shall afterwards be submitted to the electors within the same year. Restriction

(5) It is not necessary for a county council to submit the by-law for the assent of the electors if the by-law, on the final reading thereof, is approved by three-fifths of the members of the council then present. When submission to electors unnecessary R.S.O. 1950, c. 314, s. 1.

2.—(1) The parks, avenues, boulevards and drives, and approaches thereto, and streets connecting the same, shall be open to the public free of all charge, subject to the by-laws, rules and regulations of the board of park management, and subject also to sections 13 and 14. Parks to be open to public R.S.O. 1950, c. 314, s. 2.

(2) The board of park management may pass by-laws for prescribing fees to be payable for the use of any facilities provided in any park. Fees, for use of facilities

(3) The board of park management, with the approval of the council of the municipality, may pass by-laws for prescribing fees to be payable for entrance to any park. for entrance 1954, c. 78, s. 1.

Board of  
park man-  
agement

**3.—(1)** Where this Act is adopted, the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under this Act, shall be vested in and exercised by a board to be called "The Board of Park Management".

Authority  
of board  
to what  
streets  
applicable

(2) The authority of the board does not extend to any streets open at the time of the adoption of the Act, with the exception of streets expressly specified in the by-law adopting the Act, or which at any time or from time to time afterwards, in pursuance of an agreement between the council and the board, the council by by-law declares to be subject to this Act.

Consent of  
municipal  
council and  
agricultural  
society

(3) Nothing in this Act authorizes the board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein.

Management  
of special  
under-  
takings

R.S.O. 1960,  
c. 249

(4) The council may by by-law appoint the board to manage, regulate and control any undertaking established under paragraph 69 of section 377 of *The Municipal Act* and thereupon the management, regulation and control thereof shall be vested in and exercised by the board, and the board has power to prescribe fees for admittance to or for the use of any such undertaking. R.S.O. 1950, c. 314, s. 3.

Constitution  
of board

**4.** The board is a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents or ratepayers of the municipality, but not members of the council, and shall be appointed by the council. R.S.O. 1950, c. 314, s. 4.

Alternative  
composition  
of board

**5.—(1)** Notwithstanding sections 4 and 6, the council of the municipality may by by-law provide that the board shall be composed of such number of resident ratepayers, not less than three and not more than seven, as the by-law provides, but where the board is to be composed of five or more persons at least two shall be members of the council.

Appoint-  
ments

(2) The members of the board shall be appointed annually by the council.

Quorum

(3) A majority of the members of the board constitutes a quorum.

Application  
of s. 6,  
subss. 2,  
4-12, 14

(4) Subsections 2, 4 to 12 and 14 of section 6 apply *mutatis mutandis* when the board is composed as provided in this section. 1954, c. 78, s. 2.

6.—(1) The appointed members of the board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the order of such retirements to be determined by lot among themselves at their first meeting; but every member of the board shall continue in office until his successor is appointed and is eligible for reappointment. Tenure of office

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed. Vacancies

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed. Term of office of appointed members

(4) The first appointment of members of the board shall be made at the first regular meeting of the council held after the final passing of the by-law. First appointments

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization; and any vacancy arising from any cause other than the expiration of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy. Subsequent appointments

(6) The first members of the board, within ten days after their appointment and on such day and hour as the head of the municipality shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number. Organization of board

(7) If for any reason appointments are not made at the prescribed time, they shall be made as soon as may be thereafter. When appointments not made at required time

(8) The chairman and secretary shall hold office at the pleasure of the board, or for such period as the board may prescribe. Tenure of office of chairman and secretary

(9) When the chairman or secretary is absent or unable to act, the board may appoint a chairman or secretary *pro tempore*. Chairman and secretary pro tempore

Monthly  
meeting

(10) The board shall meet at least once in every month.

Calling  
special  
meeting

(11) The chairman or any two members may summon a special meeting of the board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called.

Vacating  
office by  
absence

(12) The office of a member who is absent from the meetings of the board for three consecutive months, without leave of absence from the board or without reasons satisfactory to the board, shall be declared vacant by the board, and notice thereof shall be given to the council at its next meeting.

Quorum

(13) No business shall be transacted at any special or general meeting unless at least four members are present.

Records

(14) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. R.S.O. 1950, c. 314, s. 5.

Payment of  
expenses of  
members

**7.**—(1) The members of the board shall serve without compensation, but each member is entitled to receive his actual disbursements for expenses in visiting or superintending the park or park property where the visit or service is made or rendered by direction of the board.

Prohibition  
against  
interest in  
contracts

(2) No member of the board, or of the council, shall have any contract with the board, or be pecuniarily interested, directly or indirectly, in any contract or work relating to the park or park property. R.S.O. 1950, c. 314, s. 6.

Assistance

**8.** The board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. R.S.O. 1950, c. 314, s. 7.

Custody and  
inspection of  
records

**9.** The board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. R.S.O. 1950, c. 314, s. 8.

Accounts

**10.** The board shall keep accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited by the auditor of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the board. R.S.O. 1950, c. 314, s. 9.

**11.**—(1) The board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

Power to make by-laws, etc.

(2) The powers conferred upon municipal councils by *The Railways Act*, so far as relates to any streets or approaches under the control of the board, shall not be exercised without the consent of the board, and no street railway or other railway shall enter upon or pass through the park.

Consent of board necessary for exercise of certain powers  
R.S.O. 1950, c. 331

(3) The board has power to license cabs and other vehicles for use in a park, and to let from year to year, or for any time not exceeding ten years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the board shall prescribe.

Licensing of cabs and vehicles and sale of refreshments

(4) The board has power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils and the penalties thereunder may be enforced and recovered.

Penalties

(5) The by-laws are sufficiently authenticated by being signed by the chairman of the board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the board, is receivable as evidence without proof of any such signature. R.S.O. 1950, c. 314, s. 10.

By-laws, authentication of

**12.** Real and personal property may be devised, bequeathed, granted, conveyed or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith, and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments or works of art, upon such trusts and conditions as may be prescribed by the donor. R.S.O. 1950, c. 314, s. 11.

Power of municipality to acquire property for park purposes

**13.**—(1) The board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

Power of the board to acquire land

(2) Land so acquired, together with land the general management, regulation and control of which is vested in the board under section 3, exclusive of land acquired by devise or gift, shall not together exceed 2,000 acres in the case of cities having a population of not less than 100,000, 1,000 acres in the case of other cities or of counties, and 500 acres in the case of towns, villages or townships.

Area allowable

Grantee

(3) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

Power to lease

(4) The board has power to let any land not immediately required for park purposes.

Power to sell

(5) If it has more land than is required for park purposes, the board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be deemed most advantageous. R.S.O. 1950, c. 314, s. 12 (1-5).

Lands for athletic, etc., purposes

(6) Where a park has been purchased or has been acquired by the board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by the owner of the land, freely, or at a nominal price or rental, the board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the board may see fit; but the powers conferred by this subsection are not exercisable with respect to any park unless the board has applied for and received the approval of the council. R.S.O. 1950, c. 314, s. 12 (6); 1958, c. 87, s. 1.

Municipality may empower board to manage any corporation land

**14.**—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the board, and the board may set apart the land or any part thereof for athletic purposes or for the purposes of sport exhibitions or other lawful amusements or entertainments, and may lease it for such purposes for such times and on such terms as the board may see fit.

Council may repeal by-law

(2) The council may repeal any by-law passed under subsection 1, and the municipal corporation may thereafter sell or otherwise dispose of the land or use it for any lawful purpose of the corporation. R.S.O. 1950, c. 314, s. 13.

Power to enter on lands and expropriate streams, etc.

**15.** The board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within ten miles, and in the case of a town within five miles thereof, and may survey, set out and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the board, including the supply of water for artificial lakes, fountains and other park purposes, and with the consent of all parties interested capable of consenting, may divert and expropriate any river, ponds of water, springs or streams of water therein that the engineer, surveyor or



other person authorized by the board may deem suitable for such purposes, and the board may contract with the owner or occupier of the land and with those having a right or interest in the water, for the purchase or renting thereof or of any part thereof, or of any privilege that may be required for the purposes of the board; but the board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. R.S.O. 1950, c. 314, s. 14.

**16.** In case of any disagreement between the board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or in the natural flow thereof, or in any such privilege, respecting the amount of purchase money or yearly rental thereof, or as to the damages that the expropriation thereof by the board will cause, or otherwise, the matter in question shall be determined by arbitration under *The Municipal Act*, as herein-  
Arbitration R.S.O. 1960, c. 249  
after provided. R.S.O. 1950, c. 314, s. 15.

**17.** Sections 332, 333, 335 to 337 and 340 to 349 of *The Municipal Act* shall be read as part of this Act, and apply to the board as if the board were named therein instead of the corporation or municipal council. R.S.O. 1950, c. 314, s. 16.  
Application of R.S.O. 1960, c. 249

**18.—(1)** The board shall, in the month of February in every year, prepare an estimate of the sums required during the ensuing financial year for,  
Board to make yearly estimates

- (a) the interest on money borrowed;
- (b) payment of interest and principal on debentures;
- (c) the expense of managing, regulating and controlling any undertaking established under paragraph 69 of section 377 of *The Municipal Act*;
- (d) the expense of maintaining, improving and managing the parks, boulevards, avenues and streets under its control; and
- (e) the interest and instalments of purchase money for the purchase of small squares or parks. R.S.O. 1950, c. 314, s. 17 (1, 2).

(2) The board shall report its estimate to the council not later than the 15th day of February in each year.  
When estimate to be reported

(3) The council shall, in addition to all other rates and assessments for municipal purposes, levy and assess in every year a special annual rate sufficient to furnish the amount required for the year, but not exceeding one mill in the dollar upon the assessed value of all rateable property, and the rate  
Special rate for park purposes

shall be called "The Park Fund Rate". R.S.O. 1950, c. 314, s. 17 (3), *amended*.

When rate  
may be  
increased

(4) When the board manages, regulates and controls any undertaking established under paragraph 69 of section 377 of *The Municipal Act*, the maximum rate mentioned in subsection 3 shall be two mills. R.S.O. 1950, c. 314, s. 17 (4).

Power to  
issue debentures

(5) Subject as hereinafter provided, the council may also, on the requisition of the board, raise by the issue of debentures the sums required for the purpose of purchasing the land and privileges that are reported by the board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the board for park purposes. R.S.O. 1950, c. 314, s. 17 (5); 1958, c. 87, s. 2.

Issuing of  
debentures  
for half  
cost of park  
when  
remainder  
contributed

(6) If at least one-half of the cost of establishing a park is contributed by private subscription or otherwise, the council shall, at the request of the board, issue debentures for the remaining one-half, but only when the annual sum required to meet the annual payments of interest and principal can be provided for without exceeding the limit of one mill in the dollar provided for in subsection 3.

By-law,  
when not  
necessary to  
submit to  
electors

(7) It is not necessary to submit to the electors a by-law authorizing the issue of debentures in case the annual sum required to meet the annual payments of interest and principal does not, with a reasonable allowance for annual expenses of managing, improving and maintaining the parks and other works under the control of the board, exceed the limit of one mill in the dollar, notwithstanding any provisions to the contrary in *The Municipal Act* or any special Act relating to the municipality.

R.S.O. 1960,  
c. 249

Currency of  
debentures

(8) The debentures shall be payable within forty years at furthest from the date of their issue.

To constitute  
lien

(9) Debentures issued under the authority of this Act form a lien and charge upon all land that is by this Act declared to be subject to the control and management of the board.

Sale free  
from lien,  
application  
of proceeds

(10) In case of a sale, the board may sell free from the lien, but the purchase money shall be applied to the payment of park debentures or to the purchase of other land for park purposes.

Annual rate  
for retirement  
of  
debentures

(11) During the currency of the debentures, the council shall withhold and retain out of and as a first charge on the annual rate the amount required to meet the annual payments of interest and principal on the debentures.

Application  
of provisions  
of  
R.S.O. 1960,  
c. 249

(12) Except as otherwise expressly provided in this Act, the provisions of *The Municipal Act* as to money by-laws and

the debentures to be issued thereunder apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder.

(13) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be deposited by him to the credit of the park fund, and shall be paid out by him on the orders of the board, save as to the amount required to be retained under subsection 11. R.S.O. 1950, c. 314, s. 17 (6-13).

**19.—(1)** No person shall,

- (a) wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the board or its engineers, surveyors, managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities authorized and contained in this Act; Prohibitions and penalties: hindering, etc., board or its officers
- (b) wilfully or maliciously let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, lake or other receptacle for water connected with any such park; wasting water
- (c) cause any dog or other animal to swim in, or throw or deposit any injurious, noisome or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case the water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes or water, or encourage the same to be done; fouling reservoir
- (d) lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the water-works connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the board; diverting water
- (e) wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park, avenue, drive or other public place under the control of the board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein; destroying ornamental trees, etc.

injuring  
animals, etc.

(f) wilfully or maliciously injure, hurt or otherwise molest or disturb any animal, bird or fish kept in any such park or in the lakes or ponds connected therewith.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20; or may be imprisoned for a term of not more than thirty days; and is liable to an action at the suit of the board to make good any damage done by him. R.S.O. 1950, c. 314, s. 18, *amended*.

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## CHAPTER 330

## The Public Schools Act

**1.** In this Act,Interpre-  
tation

- (a) "board" means a board of public school trustees;
- (b) "elector" in a municipality means a person entered on the last revised voters' list as qualified to vote at municipal elections and who is not a supporter of a separate school, and in a school section in territory without municipal organization means a person who is entered on the last revised assessment roll for the school section as a public school supporter, and who is not disqualified under this Act, and who is not a supporter of a separate school;
- (c) "ratepayer" means a person entered on the last revised assessment roll as a public school supporter for the school section or municipality. R.S.O. 1950, c. 316, s. 1, cls. (a, d, h); 1953, c. 90, s. 1, *part*.

**2.** The regulations, though not specially referred to, apply to any matter or thing contained in this Act, so far as they are consistent with this Act. R.S.O. 1950, c. 316, s. 2.

Application  
of regula-  
tions

**3.** Nothing in this Act authorizing the levying or collecting of rates on taxable property for public school purposes applies to the supporters of Roman Catholic separate schools, except that all taxable property continues to be liable to taxation for the purpose of paying any liability incurred for public school purposes while the property was subject to taxation for such purposes. R.S.O. 1950, c. 316, s. 3.

Exemption  
of sup-  
porters of  
Roman  
Catholic  
separate  
schools

**4.** Until altered under the authority of this Act, all public school sections continue as they now exist, and all trustees duly elected and all officers duly appointed continue in office, and all agreements, contracts, assessments and ratebills heretofore duly made in relation to public schools and existing when this Act takes effect continue subject to the provisions of this Act. R.S.O. 1950, c. 316, s. 4.

Existing  
school  
arrange-  
ments con-  
tinued

**5.—(1)** Subject to section 6, a person who has attained the age of five years on or before the 31st day of December in any year has the right to attend, after the 1st day of September of the following year, a public school in the school section

Right  
to attend  
public  
school

in which he and his parent or guardian reside or a public school in another section for which the board has made provision under section 6 unless,

- (a) his parent or guardian is a separate school supporter; or
- (b) he is unable by reason of mental or physical defect to profit by instruction; or
- (c) he has been promoted to a grade beyond the grade required to be operated in the public school; or
- (d) he has attained the age of twenty-one years.

Determina-  
tion as to  
whether or  
not person  
can profit  
by  
instruction

(2) Where a question arises as to whether or not a person can profit by instruction in a public school, the matter shall be referred to a committee appointed by the Minister for that purpose, and the decision of the committee is final.

Evidence as  
to right to  
attend

(3) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend the school, including proof of age.

Kinder-  
garten

(4) Where a board operates a kindergarten in a school, the age at which the child has the right to attend kindergarten in that school is lower by one year than that stated in subsection 1.

Junior  
kindergarten

(5) Where the board operates a junior kindergarten in a school, the age at which the child has the right to attend junior kindergarten in that school is lower by two years than that stated in subsection 1.

Kinder-  
garten fees

(6) The board may charge a fee, not in excess of the net cost per pupil per day in the preceding year, to be prepaid monthly by the parent or guardian for attendance in kindergarten or junior kindergarten of pupils who have not attained the age stated in subsection 1. 1960, c. 96, s. 1, *part, amended*.

Rights  
of  
admission:  
gross cost

**6.—(1)** In this section,

- (a) "gross cost per pupil per day" shall be determined by dividing the cost of operation of day schools of the board for the preceding year by the actual aggregate attendance for that year;
- (b) "net cost per pupil per day" shall be determined by subtracting the legislative grant received by the board, except the grant on fees paid to another board and on the cost of night school, from the cost of operation of day schools of the board for the preceding year and dividing the remainder by the actual aggregate attendance for that year.

net cost

(2) Subject to section 5, where a child and his parent or guardian reside in a school section in a residence that is assessed to the support of public schools or in a trailer for which fees are paid for the support of public schools, the child shall be admitted to a public school by the board of that section without the payment of a fee.

Resident  
pupil,  
admission  
to school

(3) Subject to section 5, where a child whose parent or guardian is not a separate school supporter moves with his parent or guardian into a residence that is assessed for separate school purposes, and the date upon which the assessment for the current year may be changed to the support of public schools has passed, upon the filing of a notice of change for the following year with the clerk of the municipality, the child shall be admitted to a public school by the board of the section without the payment of a fee.

Admission  
where public  
school  
supporter  
moves into  
residence  
assessed to  
separate  
school  
support

(4) Subject to section 5, a child,

(a) who resides with his parent or guardian in a residence that is assessed to the support of public schools; and

Admission of  
resident  
pupil to  
another  
school by  
reason of  
distance  
to school

(b) who may be excused from attendance at the school because of distance, as provided in *The Schools Administration Act* and as certified by the inspector,

R.S.O. 1960,  
c. 361

may be admitted to another public school whose inspector certifies that there is sufficient accommodation for him, upon the prepayment monthly by the parent or guardian of a fee not in excess of the net cost per pupil per day in the preceding year and the board of the section in which he resides shall refund to the parent or guardian the amount of taxes paid by him in the current year for the support of public schools up to but not exceeding the amount of fees paid for the current year.

(5) Subject to section 5, where a child resides with his parent or guardian in a residence that is assessed to the support of public schools and a public school in a neighbouring school section is more accessible to the residence than the school that he is required to attend, as certified by the inspector of the school section in which the child resides, and the inspector for the neighbouring school certifies that there is sufficient accommodation for such non-resident pupil for the current school year, the child shall be admitted to the school for that school year upon the prepayment monthly by the parent or guardian of a fee not in excess of the net cost per pupil per day in the preceding year, and the board of the section in which he resides shall refund to the parent or guardian the amount of taxes paid by him in the current year for the support of public schools up to but not exceeding the amount of fees paid for the current year.

Resident  
pupil's  
right to  
attend more  
accessible  
neighbouring  
school

Admission  
of non-  
resident  
pupils

(6) Where a parent or guardian who resides in a school section wishes to enrol his child in a public school in another school section and does not qualify for the privilege under subsection 3, 4 or 9, the child may be admitted by the board upon the prepayment monthly by the parent or guardian of a fee not in excess of the net cost per pupil per day in the preceding year.

Admission  
of child  
whose  
mother is  
sole  
supporter,  
etc.

(7) Subject to section 5, a child whose mother,

- (a) resides in Ontario;
- (b) is the sole support of the child;
- (c) is not assessed as a supporter of a public or separate school in any school section; and
- (d) boards her child in a residence that is assessed to the support of public schools and that is not a children's boarding home as defined in *The Children's Boarding Homes Act*,

R.S.O. 1960,  
c. 54

shall be admitted to a public school in the section in which he resides without the payment of a fee.

Admission  
of ward of  
children's  
aid society

(8) A child who is a ward of a children's aid society shall be admitted to a school by the board of the school that was supported by the assessment of the residence in which he resided with his parent or guardian in the year in which he became a ward and no fee shall be charged by the board.

Idem

(9) Where a child who is in the custody of a corporation, society or person and who is not qualified for admission under the other provisions of this section resides in a school section and the public school inspector certifies that there is sufficient accommodation in a school in that section for the current school year, the board of such section shall admit the child to such school upon the prepayment monthly by the corporation, society or person of a fee not in excess of the net cost per pupil per day in the preceding year.

Admission  
of non-  
resident  
pupil, where  
parent  
assessed  
in section

(10) Where a parent or guardian wishes to enrol his child in a public school in a school section, other than the one in which he resides, and he is assessed for public school purposes in that school section,

- (a) as an owner; or
- (b) for business assessment; or
- (c) as an owner and for business assessment,

for an amount at least equal to the total assessment for public school purposes in that school section divided by the average daily attendance of resident pupils in the preceding



year, the child shall be admitted to a public school by the board of that section without the payment of a fee.

(11) Where a child resides on land that is exempt from taxation for school purposes, he shall be admitted to a public school that is accessible to him and for which the inspector has certified that there is sufficient accommodation for the current school year, and fees shall be paid in accordance with the regulations respecting the education of such pupils. Resident on land exempt from taxation

(12) A public school board may by agreement with another public school board furnish education for the pupils of the other board and for that purpose may charge a fee not in excess of the gross cost per pupil per day for the preceding year. 1960, c. 96, s. 1, *part.* Agreement between boards

7.—(1) No pupil in a public school shall be required to read or study in or from a religious book, or to join in an exercise of devotion or religion, objected to by his parent or guardian. Religious exercises

(2) Subject to the regulations, pupils shall be allowed to receive such religious instruction as their parents or guardians desire. R.S.O. 1950, c. 316, s. 7. Religious instruction

8.—(1) Judges, members of the Assembly, and members of municipal councils, are school visitors in the municipalities where they respectively reside, and every clergyman is a school visitor in the municipality where he has pastoral charge. Public school visitors

(2) School visitors may visit public schools, may attend any school exercises, and at the time of a visit may examine the progress of the pupils and the state and management of the schools, and give such advice to the teachers and pupils and any others present, as they deem expedient. R.S.O. 1950, c. 316, s. 8. Powers of school visitors

9.—(1) All lands that before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in the public school trustees of the school section or municipality in which the lands are respectively situate, continue to be vested in such trustees, and continue to be held by them and their successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which the lands are now respectively held. School lands granted before 1850 vested in trustees for school purposes

(2) Notwithstanding subsection 1, lands originally granted or conveyed by the Crown for common school purposes and Disposal of school lands by boards

held by the trustees of a school section or municipality may be leased, sold or otherwise disposed of with the approval of the Lieutenant Governor in Council and upon such conditions as to the investment or application of the proceeds or otherwise as may be prescribed in the order granting the approval. R.S.O. 1950, c. 316, s. 9.

Selection  
and change  
of school  
site by  
rural board

**10.**—(1) Whenever it is deemed expedient by or it is the duty of a rural school board to erect a new school building, or to change the site of an existing schoolhouse, or where a petition in that behalf is presented by 25 per cent of the ratepayers of the school section, the board shall select a school site and shall thereupon call a special meeting of the ratepayers to consider the site selected by the board, whether it be the present site or a new site, and, if a majority of the ratepayers present at the meeting by resolution approve of it, the site shall be adopted by the board and no site shall be adopted by the board until so approved, except as provided in subsections 2, 3 and 4.

Arbitration  
when trustees  
and ratepayers  
differ as  
to site

(2) In case a majority of the ratepayers present at the special meeting differ from the board as to the suitability of the site selected by it, each party shall then and there choose an arbitrator, and the inspector or, in case of his inability to act, any person appointed by him to act on his behalf shall be a third arbitrator, and the three arbitrators or a majority of them present at any lawful meeting shall make and publish their award, and may, in and by the award, approve of the site selected by the board or may change the boundaries thereof or may select such other site as the arbitrators or the majority of them deem more suitable for the purpose.

Recon-  
sideration  
of award,  
and  
duration

(3) With the consent or at the request of the parties to the reference, the arbitrators, or a majority of them, have authority, within one month from the date of their award, to reconsider the award and within two months thereafter to make and publish a second award, which award, or the previous one, if not reconsidered by the arbitrators, shall be binding upon all parties concerned for at least five years from the date thereof, but, if the boundaries of the section have been altered before any action has been taken by the board to purchase the site, proceedings under this section may be taken for the selection of a site as if no award had been made.

Where  
failure to  
appoint  
arbitrator

(4) If the board or the majority of the ratepayers present at a public school meeting neglect or refuse, where there is a difference in regard to the selection of a school site, to appoint an arbitrator as provided in this section, the inspector, with the arbitrator appointed, shall meet and determine the matter, and the inspector, in case of such refusal or neglect, has a

second or casting vote if he and the arbitrator appointed do not agree. R.S.O. 1950, c. 316, s. 10.

(5) Where the area of a rural school site is less than two acres, the board may without reference to a meeting of the ratepayers enlarge the site to not more than two acres. Enlargement of school site

(6) This section does not apply to a school site in a township school area. 1960, c. 96, s. 2. Application

**11.**—(1) Where not already so subdivided, the municipal council of every township shall subdivide the township into school sections so that every part of the township is included in some section, and shall distinguish each section by a number. School sections in townships

(2) Where the land or property of any person is situated within the limits of two or more sections, the parts so situated shall be assessed and returned upon the assessment roll separately according to the divisions of the school sections within the limits of which the same are situated. Assessors to value land situated in each section

(3) No section shall be formed that contains less than fifty children between the ages of five and twenty-one years whose parents or guardians are residents of the proposed section unless the proposed section is more than four square miles in area, provided that a smaller area, although it contains a less number of such children, may be formed into a school section where, because of lakes or other physical conditions, a section convenient for school purposes containing an area of more than four square miles cannot be formed. Area of new school sections

(4) Every township clerk shall prepare in triplicate a school map of the township showing the divisions of the township into school sections and parts of union school sections, and shall furnish one copy to the county clerk, for the use of the county council, one to the public school inspector and retain the other in his office for the use of the township council, and shall furnish annually, on or before the 1st day of December, to the local inspector, on request, information in writing of the acreage, the assessed value, the rate for school purposes and the school population between the ages of five and twenty-one years of each section or part of a union section within the township. R.S.O. 1950, c. 316, s. 65. Township clerk to prepare maps of school sections

(5) All parts of a school section, except a township school area, shall be adjoining. 1959, c. 83, s. 5. Parts of section to be adjoining

**12.**—(1) Where, in the opinion of the Minister, it is desirable to establish and maintain a public school on lands held by the Crown in right of Canada or Ontario, or on any lands that are exempt from taxation for school purposes, the Minister may designate any portion of such lands as a rural school Public school on Crown lands

section, and may appoint as members of the board such persons as he may deem proper.

Powers of  
board

(2) The board so appointed is a body corporate by the name indicated in the order establishing the rural school section and has all the authority of a board of public school trustees for the purposes of this Act. R.S.O. 1950, c. 316, s. 66.

By-laws for  
alteration  
of single  
school  
sections

**13.** The council of a township may pass a by-law,

- (a) to unite two or more school sections in the same township into one section;
- (b) to alter the boundaries of a school section within the township, to divide an existing school section into two or more sections, to unite any part or parts of an existing section with another section or sections, or with a new section, or to unite parts of existing sections so as to form a new section, provided that all of the public school boards to be affected by the proposed by-law have been given notice thereof. 1960, c. 96, s. 3.

When part  
of section is  
added to  
city or  
town

**14.** Where in the opinion of the inspector a change in the assessment, population or otherwise has so materially affected a school section that a readjustment of the boundaries thereof is required, or where part of a school section has been added to a city or town, the council of the municipality in which the section or the remaining portion of the section is situate may pass a by-law for the readjustment of the boundaries of the school section or remaining part of the school section notwithstanding the passing of a by-law or the publication of an award within five years affecting the limits of the section or part of the section or adjoining sections. R.S.O. 1950, c. 316, s. 14 (4).

Readjust-  
ment of  
boundaries  
of school  
sections in  
counties

**15.—(1)** The council of a county, at the request of a majority of the councils of the townships in the county for a readjustment of the boundaries of the school sections in the county, shall appoint arbitrators as provided by section 48.

Readjust-  
ment of  
boundaries  
of school  
sections in  
townships

(2) The council of a county may in like manner appoint arbitrators at the request of the council of any township in the county to readjust the boundaries of the school sections in the township.

Time limit  
not to  
prevail

(3) The arbitrators shall take action and make their award and the same may be put into effect notwithstanding that any time limit in connection with the operation of a previous award or change of boundaries has not expired. R.S.O. 1950, c. 316, s. 14 (6-8).

**16.** Every urban municipality is a school section unless it forms part of a township school area or union school section. *New.* Urban municipality to be school section

**17.—**(1) A by-law of a municipal council for the establishment or alteration of a school section shall be passed before the 1st day of July in any year and, subject to subsection 2, shall become effective on the 1st day of January of the following year except that for the purposes of the election of trustees it shall be effective on the day of nomination for trustees for the school section. By-laws establishing or altering school section, effective dates

(2) A by-law of a municipal council to establish a school section or a township school area or to alter the boundaries of a school section or a township school area shall not come into force until it has been approved by the Minister. Approval of Minister

(3) The township clerk shall send a copy of the by-law immediately after the passing thereof to the secretary of the board of every school section affected thereby, to the inspector and to the Minister. 1960, c. 96, s. 5. Clerk to send copies to board, to inspector and the Minister

**18.—**(1) The trustees of every rural school section are a corporation by the name of "The Public School Board of Section No.....of the Township of.....in the County of....." (*inserting the number of the section and the names of the township and county*). Rural school trustees to be corporation

(2) For every rural school section there shall be three trustees, each of whom, in rotation, shall, except as herein otherwise provided, hold office for three years and until his successor has been elected. Trustees, term of office

(3) The persons qualified to be elected trustees are any person who is a British subject, of the full age of twenty-one years, not disqualified under this Act and who is, Trustees, qualification

- (a) a resident ratepayer whose taxes for school purposes are neither overdue nor unpaid; or
- (b) the husband, wife, son or daughter of a person assessed as the owner of a farm if resident on the farm with the assessed owner, provided that all taxes for school purposes payable with respect to the farm are neither overdue nor unpaid,

and no person not so qualified shall be elected or competent to act as trustee.

(4) For the purposes of subsection 3, "farm" means not less than twenty acres of land in the actual occupation of the owner thereof. R.S.O. 1950, c. 316, s. 67. Interpretation

Elections  
in new  
rural  
school  
sections

**19.**—(1) At the first election in every new rural school section, the first trustee elected shall hold office for three years, the second for two years, and the third for one year, or in case of a poll being taken the trustee receiving the highest number of votes shall hold office for three years, the trustee receiving the number of votes next to the highest shall hold office for two years, and the other trustee shall hold office for one year.

Casting  
vote

(2) Where two or more trustees have received an equal number of votes, the chairman shall give a casting vote or votes.

When first  
year to be  
deemed to  
commence  
and end

(3) The first year in each case shall be deemed to commence at the date of such first election and extend till the date fixed by this Act for holding the second annual meeting of rate-payers thereafter. R.S.O. 1950, c. 316, s. 68.

Corporation  
not to cease  
by want of  
trustees

**20.** A school corporation does not cease to exist by reason of the want of trustees, but, if there are no trustees, any two electors of the section, or the inspector, by giving six days notice, to be posted up in at least three of the most public places of the section, may call a meeting of the electors, who shall elect three trustees in the manner prescribed by this Act. R.S.O. 1950, c. 316, s. 69.

Annual  
meeting,  
in rural  
school  
sections,  
when held

**21.**—(1) A meeting of the electors of every rural school section except a township school area that includes part or all of an organized municipality for the purpose among other things of electing trustees shall be held annually on the last Wednesday in December, or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon, or, if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines, or, in the absence of such resolution, at the schoolhouse of the section. R.S.O. 1950, c. 316, s. 71 (1), *amended*.

Idem

(2) Where the annual meeting of electors cannot conveniently be held as provided for in subsection 1, the electors, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting, and, upon receiving the Minister's approval, the annual meeting shall be held on that day in each year thereafter, unless with the Minister's approval some other day is similarly named; provided that no subsequent alteration of the day for holding the annual meeting may be made until at least three annual meetings have been held on the day previously named and approved.

Proceed-  
ings on  
formation  
of new  
school  
section

(3) Where a new section is formed, the clerk shall fix the place for the first meeting and shall call the meeting for the

fourth Wednesday after the time for appealing against the by-law forming the section has expired or after the final disposition of the appeal, if any, by causing notices to be posted up in three of the most public places in the new section at least six clear days before the date when the meeting is to be held.

(4) The meeting shall be held at the same hour and con-  
ducted in the same manner as the annual meeting in organized sections. Time and conduct of meeting

(5) At any time after the election of trustees in a new school section, proceedings may be taken under this Act to raise money for and acquire a school site, erect school buildings and provide school equipment. Procedure after election of trustees in new section

(6) When any school meeting has not been held on the proper date, the inspector, or any two electors in the section, may call a meeting of the electors by giving six clear days notice, to be posted up in at least three of the most public places in the school section, and the meeting so called has all the powers and shall perform all the duties of the meeting in the place of which it is called. Meeting to be called in default of first or annual meeting

(7) The electors present at a school meeting shall elect one of their number as chairman and shall appoint a secretary who shall record the minutes of the meeting and perform such other duties as are required of him by this Act. Organization of meeting

(8) The chairman shall submit all motions to the meeting in the manner desired by the majority and is entitled to vote on any motion, and in case of a tie the motion shall be declared to be negatived, and he shall decide all questions of order, subject to an appeal to the meeting. R.S.O. 1950, c. 316, s. 71 (2-8). Chairman, duties of

(9) The business of every school meeting may be conducted in the following order: Order of business

1. Receiving and disposing of the annual report of the trustees.
2. Receiving a report from the trustees on the insurance on the buildings and equipment.
3. Receiving and disposing of the last annual report of the municipal auditor.
4. Where the ratepayers have provided for a local audit, receiving and disposing of the report of the local auditors.
5. If deemed necessary, providing for a local audit and the election of a local auditor for the ensuing year.

## 6. Miscellaneous business.

## 7. The election of trustees. 1956, c. 73, s. 3.

Special  
meeting,  
when to be  
held

(10) Where a special meeting of the electors of a rural school section is called, the meeting shall be held at the hour of 10 o'clock in the forenoon, or, if the board by resolution so directs, at the hour of 1 o'clock in the afternoon or 8 o'clock in the afternoon, at such place as the board shall by resolution determine, or, in the absence of such resolution, at the school-house of the section. R.S.O. 1950, c. 316, s. 71 (10).

Qualifica-  
tion of  
voters

**22.**—(1) Every person who is a ratepayer in a rural school section, and every other person who is qualified to vote at municipal elections and who resides in the rural section and is not a supporter of separate schools, is entitled to vote at an election of trustees in the section and on every question submitted to a school meeting except a question involving expenditure of money on capital account.

Capital  
expenditure

R.S.O. 1960,  
c. 249

(2) On a question involving the expenditure of money for a permanent improvement, only such persons as are qualified to vote on money by-laws under *The Municipal Act* and are public school supporters are entitled to vote in the school section.

Persons  
not British  
subjects  
excluded

(3) A person who is not a British subject or who is a citizen or subject of any foreign country is not entitled to vote at an election of school trustees in a rural school section or upon any school question. R.S.O. 1950, c. 316, s. 72.

Granting  
poll in rural  
school  
section

**23.**—(1) A poll may be demanded by any two electors at a meeting for the election of trustees or for the settlement of any school question in a rural school section, and the poll shall be granted by the chairman forthwith if demanded within ten minutes after the result of a vote has been declared by the chairman.

Entry in  
poll book

(2) Where a poll is granted, the secretary shall enter in a poll book the name and residence of each elector offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper.

Form of  
ballot  
paper

(3) Ballot papers shall be pieces of plain white paper of uniform size.

Marking  
of ballot  
paper

(4) A voter shall mark his ballot,

(a) in the election of a trustee, by marking the name of the trustee thereon; and



(b) on a question, by marking the word "for" or "against" thereon.

(5) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose. <sup>Manner of voting</sup>

(6) Every candidate may appoint a person to act as his scrutineer during the election. R.S.O. 1950, c. 316, s. 73 (1-6). <sup>Appointment of scrutineer</sup>

(7) If objection is made to the right of any person to vote, the chairman, if the name of the person appears on the assessment roll or on the voters' list, shall require the person, where he votes as a ratepayer, to make the following declaration: <sup>Right to vote objected to</sup>

1. I, A.B., declare and affirm that I am an assessed ratepayer in school section No. ....;
2. That I am of the full age of twenty-one years;
3. That I am a natural born (or naturalized) subject of Her Majesty, and am not a citizen or subject of any foreign country;
4. That I am a supporter of the public school in said school section No. ....;
5. That I have a right to vote at this election (or on the question submitted to this meeting),

or shall require the person, where he votes as an elector, who is not a ratepayer, to make the following declaration:

6. I, A.B., declare and affirm that I am entered on the assessment roll (or voters' list) of this municipality as entitled to vote at municipal elections;
7. That I am of the full age of twenty-one years;
8. That I am a natural born (or naturalized) subject of Her Majesty, and am not a citizen or subject of any foreign country;
9. That I am not a supporter of any separate school;
10. That I have been a resident of school section No.....for the six months last past;
11. That I have a right to vote at this election (or on the question submitted to this meeting),

and after making such declaration the person making it is entitled to vote. 1956, c. 73, s. 4.

(8) The poll shall not close before noon, but may close at any time thereafter when a full hour elapses without any vote <sup>When poll shall close</sup>

being polled, and shall not be kept open later than 4 o'clock in the afternoon.

Polling at  
evening  
meeting

(9) When the meeting is held in the evening, the electors may decide, by resolution, that the poll shall be conducted forthwith or at 10 o'clock on the following morning, and, if conducted in the evening, the poll shall close after ten minutes have elapsed without any vote being recorded.

Counting  
votes;  
casting  
vote

(10) When the poll is closed, the chairman and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and, if there is a tie, the chairman shall give a second or casting vote.

Declaration  
of result

(11) In the case of an election of trustees, the chairman shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a school question he shall declare the question adopted or negatived as the majority of votes is in favour of or against the question.

Copy of  
minutes and  
of poll book  
for in-  
spector

(12) A correct copy of the minutes of every school meeting and a copy of the poll book, where a poll has been taken, all of which shall be signed by the chairman and secretary, shall be forthwith transmitted by the chairman to the inspector.

Statement  
of result  
of poll

(13) A statement of the result of the vote shall be certified by the chairman and secretary and, in the case of an election of trustees, the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered or mailed to each candidate.

Acceptance  
of office  
of trustee

(14) Every person upon receiving notice that he has been elected trustee shall be deemed to have accepted the office unless a notice to the contrary is delivered by him to the chairman within twenty days after the election.

Complaints  
as to  
elections

(15) Where complaint is made to the inspector by an elector that the proceedings for the election of a trustee or that the proceedings or any part thereof of a school meeting have not been in conformity with this Act, the inspector shall investigate the complaint and confirm the election or proceedings if found to be in substantial accordance with this Act, or set the same aside if found not to be in substantial accordance therewith, and in the latter event he shall appoint a time and place for a new election or for the reconsideration of the school question, but no complaint shall be entertained unless made in writing to the inspector within twenty days after the holding of the election or meeting, and it is not incumbent upon the inspector to set aside such election or any proceeding for want of formal compliance with this Act if he is satisfied that the result of such election or proceeding has not been affected thereby.

(16) The clerk of the municipality shall supply a list of the persons qualified to vote when required by the board or when required by the inspector in the case of an investigation with regard to the election of a trustee or the proceedings of a school meeting. R.S.O. 1950, c. 316, s. 73 (8-16). Clerk to supply list of school voters

**24.**—(1) It is the duty of the secretary of a rural school section, except a township school area that includes part or all of an organized municipality, Duties of secretary of rural school section:

- (a) to call a special meeting of the board at the request in writing of two trustees or of five electors, specifying the objects for which the meeting is to be held, and to state the objects of the meeting in the notice calling the meeting; calling special meetings
- (b) to give notice in writing, before the 15th day of January in each year, to the inspector and to the clerk of the municipality of the names and post office addresses of the trustees and of the teachers employed, and to give reasonable notice in writing from time to time of any changes; names and addresses of trustees and teachers to be given to township clerk
- (c) to give the notice required by this Act of each annual meeting of the ratepayers of the section, to call a special meeting of the ratepayers when directed by the board, or, on the request in writing of five electors, for filling any vacancy in the board, for the selection of a new school site, or the appointment of a school auditor, or for any other lawful school purpose, and to cause notices of the time and place and of the objects of the meeting to be posted up in three or more public places in the section at least six clear days before the time of holding the meeting; and notice of annual meeting and meetings to fill vacancies in board, etc.
- (d) to cause to be prepared for the annual meeting of the ratepayers a report for the year then ending to be signed by the trustees and by either or both of the auditors of the section containing a summary of the proceedings of the board during the year, a detailed account of all school moneys received and expended during the year and any further information that may be required by the Minister or by the regulations. R.S.O. 1950, c. 316, s. 102, *part*; 1954, c. 79, s. 9, *amended*. report at annual meeting

(2) Where the secretary of a rural school section is a trustee, the board may pay only such compensation for his services as is approved by the electors at an annual or special meeting of electors. R.S.O. 1950, c. 316, s. 103; 1954, c. 79, s. 10, *amended*. Compensation of secretary who is also trustee

Local  
auditors of  
rural schools  
R.S.O. 1960,  
c. 249

**25.**—(1) In addition to the audit required under *The Municipal Act*, the ratepayers of a rural school section at an annual or special meeting held before the 15th day of December may provide for a local audit of the school accounts and, when a local audit is provided for, there shall be two auditors, one of whom shall be elected by the ratepayers and the other appointed by the school board before the 15th day of December. 1956, c. 73, s. 6.

Filling  
vacancies

(2) Where an auditor refuses or is unable to act or dies, another may be elected or appointed in his place.

Appoint-  
ment by  
inspector

(3) If from any cause at any time after the 1st day of December there are not two auditors willing, able and authorized to act, the inspector on the written request of any two ratepayers shall appoint one or both auditors as the case may require.

Trustees  
and  
secretary-  
treasurer  
to lay  
accounts,  
etc., before  
auditors

(4) The board or the secretary and treasurer shall lay all accounts before the school auditors or one of them, together with the agreements, vouchers, contracts and books in their possession, and the board and the secretary and treasurer and each of them shall afford to the auditors all the information in his or their power as to the receipts and expenditures that the auditors or either of them may require.

Time of  
audit

(5) The auditors, or one of them, shall on or immediately after the 1st day of December in each year appoint a time, before the day of the next ensuing annual school meeting, for examining the accounts of the school section. R.S.O. 1950, c. 316, s. 104 (2-5).

Duties of  
auditors

(6) It is the duty of the auditors to examine into and decide upon the accuracy of the accounts of the section, and whether the board has duly expended for school purposes and accounted for the moneys received by it, and to submit the accounts with a full report thereon at the next annual school meeting.

Differences  
between  
auditors

(7) Any difference of opinion between the auditors on any matter in the accounts shall be decided by the inspector.

Report of  
objections

(8) If both auditors object to the lawfulness of any expenditure, they shall report the matter to the annual meeting, and shall submit it to the Minister, whose decision is final. R.S.O. 1950, c. 316, s. 105.

Powers of  
auditors

(9) The auditors or either of them may require the attendance of all persons interested in the accounts, and of their witnesses, with such books, papers and documents as the auditor or auditors may direct, and may administer oaths to such persons and witnesses. R.S.O. 1950, c. 316, s. 106.

(10) An auditor who has entered upon an audit may complete the same although he has not done so within the time prescribed by this Act. R.S.O. 1950, c. 316, s. 107. May complete audit after time prescribed

**26.** No action to set aside an award made under this Act shall be undertaken by or at the instance of the board of a rural school section, that is not a township school area that includes part or all of an organized municipality, without the consent of the majority of the ratepayers of the section present at a special meeting duly called to consider the advisability of such action being brought. R.S.O. 1950, c. 316, s. 11, *amended*. Consent of majority of ratepayers to action to set aside award

**27.—(1)** Every board in urban municipalities is a corporation by the name of "The.....Public School Board", prefixing to the words "Public School Board" the name of the municipality for which the board is elected. Urban school board, corporation

(2) Any ratepayer in an urban municipality who is a British subject, and who resides in the municipality, or in the case of a city or town, within one mile from the boundaries of the municipality, and who is of the full age of twenty-one years and not disqualified, may be elected a public school trustee and every trustee, except as otherwise provided herein, shall continue in office until his successor has been elected and a new board organized, but no person who is not a British subject shall be elected or competent to act as trustee. Who may be elected trustees

(3) The husband or wife of a person assessed as actual owner or tenant of land in the municipality for an amount sufficient to entitle him or her to vote at municipal elections shall be deemed a ratepayer within the meaning of subsection 2, but is not eligible for election or to sit or vote as a member of the board while his or her wife or husband is a member of the board. R.S.O. 1950, c. 316, s. 74 (1-3). Qualifications of husband or wife of ratepayer

(4) A person is not eligible to be elected as a trustee or to sit or vote as a member of the board if any portion of the taxes levied for school purposes for the preceding year or years on the property in respect of which the person qualifies is overdue or unpaid at the time of the opening of the nomination meeting; provided that this subsection does not apply where the person is a tenant of the property and the taxes in respect thereof are, under the terms of the tenancy, payable by the owner of the property. R.S.O. 1950, c. 316, s. 74 (4); 1953, c. 90, s. 8. Taxes

**28.** Where an urban municipality becomes incorporated, the board having jurisdiction over the school property within the urban municipality before such incorporation shall, for the purposes of the public schools in the urban municipality, First election of trustees

exercise all the powers and perform all the duties of a board of an urban municipality until a board is organized in such urban municipality. R.S.O. 1950, c. 316, s. 75 (1), *amended*.

(NOTE.—*As to elections in a union school section, including an urban municipality and a portion of a township, see section 53.*)

Election of trustees in urban municipality not divided into wards, by general vote

**29.**—(1) Except as provided in section 30, the trustees of a school board of an urban municipality shall be elected by a general vote of the electors for a term of two years with one-half of the trustees retiring each year.

Number of trustees on board

(2) The number of trustees on the board shall be determined by the population of the municipality as shown on the assessment roll for the year preceding the year in which the election is held as follows, where the population was,

- (a) less than 10,000, six trustees;
- (b) 10,000 or more but less than 50,000, eight trustees;
- (c) 50,000 or more but less than 100,000, ten trustees;
- (d) 100,000 or more, twelve trustees.

Change in number of trustees

(3) Where it becomes evident from the assessment roll of a municipality that the number of trustees on a school board should be increased or decreased, the trustees in office shall continue in office until the end of the year and the proper number of trustees shall be elected to take office on the 1st day of January of the following year. 1960, c. 96, s. 15, *part*.

Urban municipality divided into wards

**30.**—(1) A school board for an urban municipality that is divided into wards may, in the manner provided in section 31, be changed to a board comprising two trustees for each ward, one of whom shall retire each year, elected by the electors of that ward.

Where five or more wards

(2) A school board of an urban municipality that is divided into five or more wards may, in the manner provided in section 31, be changed to a board comprising one trustee for each ward elected by the electors of each ward for a period of two years.

Change from election by wards to general vote

(3) A school board of an urban municipality that is divided into wards may, in the manner provided in section 31, be changed to a board elected in the manner provided in section 29. 1960, c. 96, s. 15, *part*.

Method of changing composition and election of board

**31.**—(1) The composition and election of a board of an urban municipality that is divided into wards may be changed from the composition and election mentioned in any one of the

subsections in section 30 to that provided in any other subsection in that section provided that,

- (a) a resolution for a change is supported by a majority of the trustees of the board and is approved by resolution by the council of the municipality before the 1st day of July in any year; or
- (b) where such a resolution for a change is not approved by the council before the 1st day of July, the board may require the council to submit the resolution to the electors at the next municipal election.

(2) Where a township area board is to be established to replace more than one public school board or where a board of education is to be established to replace a public school board or a board of education is to be dissolved and replaced by a public school board, the trustees required to support a resolution under clause *a* of subsection 1 shall be the elected trustees in the municipality and, where there is more than one public school board concerned, any such board may require council to submit a resolution to the electors under clause *b* of subsection 1.

Where  
change  
involves  
township  
area  
board or  
board of  
education

(3) At the election following the passing of the resolutions by the board and council or following a favourable vote of the electors on the question, a new board shall be elected to take office on the 1st day of January of the following year.

Election of  
new board  
after  
change

(4) A change in the method of election may not be made under this section unless,

Limitations  
on changing  
method of  
election

- (a) the board has been elected in its present form for a period of four years; or
- (b) a board of education is being established or a public school board is being established following the dissolution of a board of education. 1960, c. 96, s. 15, *part*.

**32.** At the first election of the trustees of an urban school board and at the first election of trustees held after a change in the composition of the board, where one-half of the trustees of the board are to retire at the end of the first year,

Determina-  
tion of  
retirement  
of trustees

- (a) in the case of an election by general vote, the elected trustees who received the lowest number of votes shall retire at the end of the first year; and
- (b) in the case of an election by wards, the elected trustee who received the lowest number of votes in each ward shall retire at the end of the first year,

and, in the case of a tie vote or of an acclamation, the clerk of

the municipality shall determine the order of retirement by lot. 1960, c. 96, s. 15, *part*, *amended*.

Urban school  
elections,  
who may  
vote

**33.** Every person named in the last revised voters' list as being entitled to vote at municipal elections is entitled to vote at the election of school trustees in urban municipalities, excepting persons who are assessed as supporters of separate schools and persons who are entered on such voters' list by reason of being the wife or husband of a person assessed as a supporter of separate schools. R.S.O. 1950, c. 316, s. 79.

Election by  
ballot

**34.**—(1) The board of an urban municipality shall be elected by ballot, and the election shall be held at the same time and place and by the same returning officer or officers and conducted in the same manner as the municipal nominations and elections of aldermen or councillors, and the provisions of *The Municipal Act* respecting the time and manner of holding the election, including the mode of receiving nominations for office and the resignation of persons nominated, *mutatis mutandis* apply to the election. 1953, c. 90, s. 10, *part*; 1960, c. 96, s. 16.

R.S.O. 1960  
c. 249

Ballots

(2) A separate set of ballot papers shall be prepared by the clerk of the municipality for each of the wards or polling subdivisions, containing the names of the candidates in the same form *mutatis mutandis* as those used for aldermen or councillors, and a ballot shall be delivered only to a person who is a supporter of the public schools under the jurisdiction of the board to which the candidate is seeking election.

Idem

(3) In no case shall a ballot be delivered to any person who is entered on the list of voters as a separate school supporter or by reason of being the wife or husband of a separate school supporter. 1953, c. 90, s. 10, *part*.

Vacancies  
in rural  
board

**35.**—(1) Where the office of trustee of a rural school section becomes vacant from any cause, the remaining trustees shall forthwith hold a new election to fill the vacancy in the manner provided for holding the annual election of trustees, and the person elected shall hold office for the remainder of the term for which his predecessor was elected. R.S.O. 1950, c. 316, s. 83 (1).

Vacancies  
in urban and  
township  
area boards

(2) Subject to subsection 4, where a vacancy occurs from any cause in an urban school board or a township school area board and the remaining trustees constitute a majority of the membership of the board, a majority of the remaining trustees shall, at the first regular meeting after the vacancy occurs, elect some qualified person to fill the vacancy and the person so elected shall hold office for the remainder of the term for which his predecessor was elected, and in the case of an



equality of votes the chairman of the meeting has a second or casting vote.

(3) Subject to subsection 4, where a vacancy occurs from <sup>Idem</sup> any cause in an urban school board or a township school area board and the remaining trustees do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancies, and every member so elected shall hold office for the remainder of the term for which his predecessor was elected, and, where at any such election any vacancy is for a longer term than the remaining vacancy or vacancies, the candidate having the largest number of votes at the election shall fill the vacancy for the longer term, and in case of a tie the clerk of the municipality shall determine the order of retirement by lot. 1953, c. 90, s. 12, *part*.

(4) In the case of an urban school board or a township <sup>Idem</sup> school area board,

- (a) any vacancy that occurs within one month of the time for the next ensuing election shall not be filled in the manner provided by subsection 2 or 3, but the office shall remain vacant until the election, and if the term of the vacant office then expires a new trustee shall be elected, or if the term does not then expire some duly qualified person shall be elected at the election to fill the vacancy for the remainder of the term;
- (b) any vacancy that occurs after the election but before the new board is organized shall be filled immediately after the new board is organized in the manner provided in subsection 2 or 3, as the case may be;
- (c) where there are a number of vacancies and the vacancies are for terms of different lengths, the vacancies for the longer terms shall be filled by the candidates having the most votes;
- (d) where the number of candidates who are nominated is the same as the number of vacancies, and the terms differ, the clerk of the municipality shall determine the order of retirement by lot. 1953, c. 90, s. 12, *part, amended*.

(5) Where the inspector reports that no persons duly qualified are available or that the electors have failed to elect trustees, the Minister may appoint as members of the board such persons as he may deem proper, and the persons so appointed have all the authority of a board as though they were eligible and duly elected according to this Act. R.S.O. 1950, c. 316, s. 83 (4); 1958, c. 88, s. 11.

Appoint-  
ment of  
trustees on  
failure of  
qualified  
persons

Resignation  
of trustee of  
rural board

**36.**—(1) A trustee of a rural section may resign by giving notice in writing to each of the other trustees.

Trustee  
continuing  
to act after  
resignation

(2) Where, after the resignation of a rural school trustee, he has continued to act for three months without his right to do so having been called in question by proceedings to vacate his seat or for the holding of a new election, he shall be deemed to have continued to be a trustee, notwithstanding his resignation, and shall hold office for the remainder of the term for which he was elected.

Resignation  
of trustee of  
urban board

(3) A member of an urban board may resign by giving written notice of his resignation to the secretary.

Re-election  
of trustee

(4) A retiring trustee is exempted from serving for four years next after leaving office, but he may, with his own consent, be re-elected. R.S.O. 1950, c. 316, s. 86.

Controverted  
elections,  
investigation  
of complaints  
by judge

**37.**—(1) Every complaint respecting the validity or mode of conducting the election of a trustee or the return made by a returning officer in an urban municipality or in a township for which a township school area board has been established shall be made to the judge of the county or district court within twenty days after the election, and he shall, within a reasonable time, in a summary manner hear and determine the complaint, and may cause the assessment rolls, collector's rolls, poll books and other records of the election to be brought before him, and may inquire into the facts by oral testimony or upon affidavit, and may cause such persons as he deems expedient to appear before him and give evidence.

Powers of  
judge

(2) The judge may confirm the election or set it aside, or declare that some other candidate was duly elected, or may order a new election, and may order the person found by him not to have been elected to be removed, and if the judge determines that any other person was duly elected he may order such person to be admitted, and if the judge determines that no person was duly elected he shall order a new election to be held, and he shall in all cases report his decision to the secretary of the board. R.S.O. 1950, c. 316, s. 84.

Application  
of R.S.O.  
1960, c. 249,  
s. 142

(3) Section 142 of *The Municipal Act* applies *mutatis mutandis* to every election of trustees in an urban municipality or in a township for which a township school area board has been established and to any proceeding relating to such election. 1959, c. 83, s. 6.

Bribery  
and undue  
influence  
R.S.O. 1960,  
c. 249

**38.** In the case of an election of trustees in an urban municipality or in a township for which a township school area board has been established, the provisions of *The Municipal Act* as to bribery and undue influence apply, and, in every

case in which an election is complained of on those grounds, the inquiry by the judge in reference thereto shall be by oral testimony only. R.S.O. 1950, c. 316, s. 85.

**39.** The clerk of a municipality is not eligible to be a member of a public school board having jurisdiction in the whole or any part of the municipality. 1953, c. 90, s. 15. Disqualification of municipal clerk

#### TOWNSHIP SCHOOL AREAS

**40.—(1)** The council of a township may by by-law, passed with the consent of a majority of the whole number of members of the council before the 1st day of July in any year, set apart the whole or any portion of the township as a township school area, and, when the by-law becomes effective, the school sections that are included in the township school area cease to exist and the boards having jurisdiction therein are dissolved. 1959, c. 83, s. 1. Township school areas, by-law setting apart

(2) The council of a township may include a union school section or part thereof in a township school area if the council of each other municipality containing a portion of the union school section by resolution assents thereto on or before the 31st day of August in the year in which the by-law establishing the township school area is passed, and, where the whole of the union school section is included, all parts thereof shall be regarded as part of the township for public school purposes. Inclusion of union school section in township area

(3) Where the by-law provides for the inclusion of the whole of a union school section and the other municipalities do not assent to the inclusion of the union school section or any part thereof on or before the 31st day of August, the by-law shall not be effective in respect of the union school section, and the by-law shall be amended accordingly on or before the 30th day of September. Idem

(4) If the other municipalities assent to the inclusion of only a part or parts of the union school section, the by-law shall be effective only in respect of the part or parts, and the by-law shall be amended, if necessary, to conform to the assent, on or before the 30th day of September. 1953, c. 90, s. 3 (1), *part.* Idem

(5) Where the whole or part of a union school section is included in a township school area, the union school section shall be dissolved on the 1st day of January of the year following that in which the by-law is passed and the provisions of section 42 with respect to the adjustment of rights and claims apply, and where only part of the union school section is included the remaining part or parts shall, subject to subsection 3 of section 11, be established as a school section Dissolution of union school section

or union school section or shall be added to a township school area or another school section or sections or a union school section or sections in accordance with this Act. 1953, c. 90, s. 3 (1) *part*; 1960, c. 96, s. 6 (1).

Certified  
copy of  
voters'  
list

(6) Where a township school area includes a union school section, the clerk of each township any portion of which forms part of the union school section shall furnish to the clerk of the township in which the area is formed a certified copy of the list of voters qualified to vote on school matters in that portion of the township. R.S.O. 1950, c. 316, s. 15 (3).

Enlarge-  
ment of  
areas

(7) The council of a township may by by-law add all or part of a school section or union school section to a township school area already established, and subsections 1 to 6 apply *mutatis mutandis*. 1953, c. 90, s. 3 (2).

Decreasing  
areas

(8) The council of a township that includes part or all of a township school area may, by by-law passed before the 1st day of July in any year, detach any portion of the township school area and, subject to subsection 3 of section 11, may establish such portion or any part thereof as a school section, union school section or township school area or attach such portion or any part thereof to a township school area, or to an adjoining school section, or to a union school section. 1957, c. 101, s. 6 (1), *part*; 1960, c. 96, s. 6 (2), *amended*.

Approval  
required

(9) Where the township school area from which a portion is detached comprises two or more municipalities or parts thereof or where the portion detached or any part thereof is attached to a township school area, or to an adjoining school section, or to a union school section, part or all of which is situated in a municipality other than a municipality having jurisdiction in the township school area from which the portion is detached, a by-law passed under subsection 8 shall not be effective unless it is approved by resolution passed before the 31st day of August of the same year by the council or councils of the municipalities concerned. 1957, c. 101, s. 6 (1), *part*.

Township  
school  
area,  
formation of

(10) The council of each of two or more contiguous townships may, by by-law passed with the consent of a majority of the whole number of members of the council before the 1st day of July in any year, set apart the whole or any portion of the township to form a township school area with the whole or any portion of the contiguous township or townships and subsections 1 to 7 apply *mutatis mutandis*.

Idem

(11) The council of each of one or more contiguous townships, and of a village or town that is contiguous to one or more of them may, respectively, by by-law passed with the consent of a majority of the whole number of members of each council before the 1st day of July in any year, set apart the

whole or any portion of the township or townships and the whole of the adjacent village or town, which together shall form a township school area, and subsections 1 to 7 apply *mutatis mutandis*.

(12) The council of the township or the councils of the municipalities, Inclusion of unorganized territory

(a) establishing a township school area; or

(b) by which a township school area has been established,

may include in the area or may add to the area, as the case may be, any portion of territory without municipal organization if the board of every school section in such portion so included or added consents thereto, and the territory so included or added shall for all public school purposes be deemed to be a part of the municipality having the largest assessment within the area, and the officers thereof shall make all assessments and collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to the territory so deemed part of the municipality as with respect to the part of the municipality actually within the township school area. R.S.O. 1950, c. 316, s. 15 (5-7).

(13) There shall be a board of public school trustees for every township school area which shall consist of five members. R.S.O. 1950, c. 316, s. 15 (9), *amended*. Board of public school trustees for township school area

(14) The persons who may be trustees on a board, Qualifications of trustees

(a) for a township school area that does not include an urban municipality, shall have the qualifications required for trustees of a rural school section; and

(b) for a township school area that includes an urban municipality, shall have the qualifications required for trustees of an urban board or for trustees of a rural school section. 1957, c. 101, s. 6 (2).

(15) Where a township school area includes only the whole of one township that is divided into wards, the composition and election of the board may be changed in the manner provided in section 31 to that provided for a school board of an urban municipality. 1960, c. 96, s. 6 (4). Where township divided into wards

(16) The trustees of every township school area shall hold office until their successors are elected and a new board is organized. Term of office of trustees

(17) The election of school trustees for the township school area shall be by ballot and shall be held for the year in which the by-law takes effect and for each year thereafter, at the Township school area, election of trustees

same time and place as the annual municipal elections of the township, and as nearly as may be in the same manner as an election of members of a municipal council, and the clerk of the township shall be the returning officer at each election, and except as otherwise provided herein all the provisions of this Act applicable to the election of trustees by ballot apply as nearly as may be to the election of school trustees under this section.

Nominations  
and elec-  
tions where  
two or more  
muni-  
cipalities in  
area

(18) Where a township school area is formed under subsection 10 or 11,

- (a) the nominations for school trustees of the township school area shall be conducted by the returning officer of the municipality that has the largest equalized assessment, or, where there is no equalized assessment, the largest local assessment, in the township school area, and shall be held at the same time and place as nominations for municipal councillors in that municipality;
- (b) the election of such school trustees shall take place in each municipality during the same hours and on the same day as the annual municipal elections in the municipality in which the nominations were held in the same manner as nearly as may be as the election of the members of a municipal council;
- (c) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the clerk of the municipality in which the nominations were held, who shall prepare the final summary and announcement of the vote; and
- (d) if at the first election two or more trustees receive an equal number of votes or all of the trustees are declared elected by acclamation, the clerk of the municipality in which the nominations were held shall determine which of the trustees shall hold office for two years and his determination shall be notified to the board in writing and shall be entered in the minutes of the board.

Term of  
office

(19) Of the trustees elected at the first election, the three trustees receiving respectively the highest, second highest and third highest number of votes shall hold office for two years and the two remaining trustees shall hold office for one year.

Subsequent  
elections

(20) After the first election, an election shall be held in each year to fill the places of trustees whose terms of office have expired, and the trustees elected shall hold office for two years.

(21) In case, at the first election of trustees, two or more trustees receive an equal number of votes, or all the trustees are declared elected by acclamation, the clerk of the municipality shall determine which of such trustees shall hold office for two years, and his determination shall be notified to the board in writing and shall be entered on the minutes of the board. R.S.O. 1950, c. 316, s. 15 (10-15). Equality of votes at first election

(22) The board of a township school area has the powers of an urban public school board and of a rural public school board. R.S.O. 1950, c. 316, s. 15 (16), *amended*. Powers of township school area board

(23) Every board of trustees of a township school area is a corporation by the name of "The Public School Board of the Township School Area of....." (*inserting the number, if any, and the name of the municipality or such other designation as the by-law may provide*). 1957, c. 101, s. 6 (5). Incorporation

(24) Upon the election and organization of a board of public school trustees for a township school area, the board of public school trustees for every school section then in existence in the township school area is dissolved and all the real and personal property vested in the board of any such school section is vested in and becomes the property of the board of the township school area. Vesting of real and personal property in board of township school area

(25) The board of the township school area is responsible for and shall discharge all liabilities and obligations of each of the school sections included in the township school area, and the indebtedness of the board of any school section shall be provided for by a general rate levied upon all property liable to taxation for public school purposes in the township school area. R.S.O. 1950, c. 316, s. 15 (19, 20). Board responsible for obligations of each school in township school area

(26) Where a township school area is formed under subsection 10 or 11, the auditor of the municipality that has the greatest equalized assessment shall be the auditor of the township school area books. R.S.O. 1950, c. 316, s. 15 (22), *amended*. Auditor

(27) No by-law passed under this section comes into force until the Minister has approved of it and has made an order under subsection 5 of section 42. 1957, c. 101, s. 6 (6). Approval of by-law

(28) All the powers and duties of the board of a school section that becomes part of a township school area are vested in and imposed upon the board of the township school area. R.S.O. 1950, c. 316, s. 15 (25, 26). Powers and duties

**41.—**(1) An inspector may, before the 1st day of July in any year, with the approval of the Minister and the consent of the boards concerned, form two or more school sections in territory Township school areas in unorganized territory

without municipal organization or parts thereof into a township school area and may include any other part of territory without municipal organization therein or decrease or increase the area thereof. 1958, c. 88, s. 4, *part*.

Effective  
date

(2) The formation of the township school area shall take effect as from the 1st day of January next following the approval of the Minister, but the boards of trustees of the rural school sections shall continue in office until a board for the township school area has been elected and organized as provided by this section.

Constitution  
of board

(3) There shall be a board of five public school trustees for every such township school area and the board may exercise such powers and perform such duties with respect to the public schools of the area as a board constituted under section 40.

First  
election

(4) The first meeting of the ratepayers for the election of trustees shall be held at a time and place to be named by the inspector, and shall be conducted as nearly as may be in the same manner as the election of trustees in a rural school section.

Subsequent  
elections;  
powers and  
duties

(5) All subsequent elections of school trustees for the township school area shall be by ballot, and the board of trustees of the area shall exercise all the powers and may perform all duties of a municipal council in relation to the nomination and election of trustees and the assessment and collection of taxes for the township school area. R.S.O. 1950, c. 316, s. 16 (2-5).

Incorporation

(6) Every board of trustees of a township school area formed under this section is a corporation by the name of "The Public School Board of the Township School Area of....." (*inserting the name selected by the inspector and approved by the Minister*). 1958, c. 88, s. 4, *part*.

Application  
of ss. 21-23,  
40, 56-61

(7) For the purposes of township school areas formed under this section, and except as to matters provided for in this section, sections 21 to 23, 40 and 56 to 61 apply *mutatis mutandis*. R.S.O. 1950, c. 316, s. 16 (7).

Adjustment  
of claims

**42.—**(1) All rights and claims between parts of a municipality or municipalities comprising the several school sections united into a township school area or added to or detached from a township school area shall be valued, adjusted and determined in an equitable manner by a referee to be appointed by the Minister within three months after the passing of the by-law or by-laws establishing, altering or dissolving the township school area. R.S.O. 1950, c. 316, s. 17 (1), *amended*.

Powers of  
Minister  
and referee

(2) The Minister and any referee appointed by him have and may exercise such jurisdiction and powers as may be necessary for the purpose of the valuation, adjustment and determination of all or any of such rights and claims.



(3) A referee appointed under this section shall proceed to hear and report to the Minister upon such rights and claims as the Minister may from time to time direct, and he shall submit his report to the Minister within three months of his appointment or within such further time as the Minister may allow, and he shall be paid for his services such fee as the Minister may direct.

Referee,  
hearing by,  
report and  
remunera-  
tion

(4) Upon the report of the referee being filed with him, the Minister shall consider the report and may hear such representations in respect thereof as he may see fit, and before adopting the report he may refer it back to the referee for his further consideration.

Considera-  
tion of  
report by  
Minister

(5) The Minister may adopt, vary or amend the report and his decision is final and not open to question or appeal and is binding upon each municipality and the ratepayers of each municipality and of any school section affected thereby.

Decision of  
Minister

(6) The council of each municipality, all or a portion of which is included in a township school area, shall annually impose and levy such special rates against the rateable property in the municipality, that is within the township school area, as may be directed by the Minister for the purpose of adjusting any rights and claims determined under this section.

Special  
rates for  
adjusting  
claims

(7) For the purpose of evaluating, adjusting and determining all rights and claims,

Adjustment  
of claims  
in certain  
areas

(a) between parts of a municipality or municipalities and parts of territory without municipal organization formed into a township school area under subsection 12 of section 40; and

(b) between school sections within township school areas formed under section 41,

subsections 1 to 6 apply *mutatis mutandis*. R.S.O. 1950, c. 316, s. 17 (9).

**43.**—(1) Where a township school area consists of more than one municipality or parts thereof, section 55 applies *mutatis mutandis*, except that the meeting of the assessors shall be called by the assessor of the municipality having the largest population within the township school area according to the last revised assessment rolls.

Assessors to  
determine  
proportion

(2) Where the assessors disagree, the inspector of the township school area and the assessors shall be arbitrators to determine the matter. R.S.O. 1950, c. 316, s. 41.

Arbitration  
where  
assessors  
disagree

Consolidated  
school section  
deemed town-  
ship school  
area

**44.** Every consolidated school section heretofore established is a township school area. 1960, c. 96, s. 7.

#### UNION SCHOOL SECTIONS

Unions may  
be formed  
in townships  
including  
towns and  
villages

**45.**—(1) In a county a union school section may be formed between parts of two or more adjoining townships, or a union may be formed between parts of one or more townships and an adjoining urban municipality not being a city or a separated town, and in such case the union shall be considered an urban municipality. R.S.O. 1950, c. 316, s. 32 (1).

Procedure  
for forma-  
tion, altera-  
tion or dis-  
solution of  
union

(2) A union school section may be formed, altered or dissolved on the petition of five ratepayers from each of the municipalities concerned to their respective councils asking for the formation, alteration or dissolution of the section. R.S.O. 1950, c. 316, s. 32 (8).

Arbitrators

(3) Each of the councils so petitioned shall, within thirty days of the receipt of the petition, appoint an arbitrator who shall not be a member of the council, and the clerk of each municipality concerned shall send a notice of the appointment to the inspector in the municipality and each such inspector shall also be an arbitrator. 1958, c. 88, s. 5.

Petition of  
council

(4) A council may act upon a petition addressed to the councils concerned or to any two or more of them jointly if the petition is signed by five ratepayers of the municipality acting thereon.

Where even  
number of  
arbitrators  
appointed,  
county  
judge to act

(5) Where there would otherwise be an even number of arbitrators, the judge of the county or some person named by him shall be added, and, where the arbitration affects two or more counties, the judge of the county that has the largest population according to the last federal census or some person named by him shall be added.

Majority  
award

(6) The arbitrators, or a majority of them, may make and publish the award.

First meet-  
ing of ar-  
bitrators

(7) The first meeting of the arbitrators shall be called by the senior inspector, who shall give ten days notice in writing of the meeting to the clerks of the municipalities concerned who shall forthwith notify the arbitrators appointed by their respective councils. R.S.O. 1950, c. 316, s. 32 (10-13).

What award  
may deal  
with

(8) The award of the arbitrators may deal with a greater or smaller area or areas than the area or areas specified in the petition. 1959, c. 83, s. 2 (1).

Award,  
what to  
contain

(9) Where the arbitrators determine upon the formation of a new union section or upon the alteration of the boundaries of an existing union section, they shall in their award set

forth the specific parcels of land to be included in the new union section or in the altered section, as the case may be.

(10) In the event of the transfer of any land from an existing union section to some other section, the arbitrators shall in their award set forth to what other section the transfer shall be made. Award to set out land transferred

(11) Where the arbitrators determine upon the dissolution of an existing union section, they shall set forth in their award the section or sections to which the land composing the union section shall be attached. In case of dissolution

(12) Where the arbitrators are of opinion that it would be in the interests of the parties concerned, and that it is practicable so to do, they may form part of the territory of a section into a new section, or form a new union section, and they shall indicate the land of which such section or union section shall be composed, and the remainder of the union section shall be disposed of as herein provided. Reorganizing union section

(13) Where a new union section is formed or an existing union section is altered, the arbitrators shall determine and fix the proportion that the part in each municipality shall be liable to contribute towards the erection of the schoolhouse and the maintenance of the school and other necessary expenses. Fixing proportions of liabilities

(14) The arbitrators shall value and adjust, in an equitable manner, all rights and claims consequent upon the formation, alteration or dissolution of a union section between the respective municipalities, school sections and ratepayers concerned, and shall also determine in what manner and by what municipality or municipalities or by what parts thereof the same shall be paid and the money to be paid by one part of the municipalities or school sections concerned to the union section so formed or altered, and the disposition of the property of the union section, and any payment by one part to the other, and the right of any ratepayer affected by the award. Adjustment of claims

(a) Where the award directs the payment of any sum of money by one municipal corporation to another, the corporation liable may pass a by-law for borrowing the money by the issue and sale of debentures, and it is not necessary to obtain the assent of the electors to any such by-law, or to observe the other formalities in relation thereto prescribed by *The Municipal Act*. School arbitrations, payment of award

(b) The debentures and the money to be raised annually for the payment thereof is chargeable only upon the property of ratepayers who are the supporters of public schools. R.S.O. 1960, c. 249  
Debentures to be a charge on public school rates

Term and  
form of  
debentures

R.S.O. 1960,  
c. 249

- (c) The debentures may be for such amount and for such term of years, not exceeding thirty, as the council sees fit, or the council may make the principal and interest payable in annual or other instalments in the manner provided by *The Municipal Act*. R.S.O. 1950, c. 316, s. 32 (14-19).

Calling first  
meeting  
to elect  
trustees

- (15) Where a new union section is formed, the inspector authorized under subsection 7 to call the first meeting of the arbitrators shall call the first meeting of electors for the election of trustees, and shall proceed as the clerk of the municipality is directed to proceed in the case of the formation of a new section under this Act, and the trustees may at any time after their election raise money for and may acquire a school site, erect school buildings and provide school equipment. R.S.O. 1950, c. 316, s. 32 (20, 21), *part*.

Union to  
take effect  
Jan. 1st

- (16) Such union, alteration or dissolution, except as herein otherwise provided, does not take effect until the 1st day of January after the award or a certified copy thereof is filed with the clerks of the municipalities concerned. R.S.O. 1950, c. 316, s. 32 (21), *part, amended*.

Apportion-  
ment, term  
of

- (17) Subject to subsection 18, the proportion of liability determined by the arbitrators shall continue in force for a period of five years following the formation or alteration of the boundaries of the union school section and in the fifth year the assessors shall determine the apportionment as provided in section 55.

reconsidera-  
tion of

- (18) If, in the second, third or fourth year following the formation or alteration of a union school section, the assessment for public school purposes has decreased as the result of the formation of a separate school, or the assessment of the part of the union school section in one of the municipalities has increased or decreased to the extent of 10 per cent of the assessment at the date of the last apportionment, the trustees or five ratepayers of the union school section may petition the council prior to the 1st day of November in any year to appoint arbitrators to reconsider and determine the apportionment, and the proceedings shall be the same as in the case of a petition under subsection 2. R.S.O. 1950, c. 316, s. 32 (22, 23, 26, 27), *amended*.

Union school  
sections in  
territorial  
districts

- (19) In a territorial district,

- (a) a union school section may be formed consisting of,
- (i) all or part of two or more organized townships, or
  - (ii) a town or village and all or part of one or more organized townships, or

- (iii) territory without municipal organization and one or more of a town or village or all or part of one or more organized townships;
- (b) for the purpose of the formation, alteration or dis-<sup>petition</sup> solution of such a union school section the petition of the ratepayers for the part of the union school section not included in an urban municipality or organized township shall be presented to the inspector;
- (c) the arbitrators shall be one person appointed by each <sup>school arbit-</sup> of the councils of the organized municipalities con-<sup>rators</sup> cerned, the inspector of the district and the judge of the county or district court or some person named by him, and they have all the powers of the board of arbitrators mentioned in this section, all of which, so far as applicable, applies to the subject matter of this subsection;
- (d) each of the councils petitioned by five or more rate-<sup>appoint-</sup> payers shall, within thirty days of the receipt of the <sup>ment</sup> petition, appoint an arbitrator who shall not be a member of the council, and the clerk of each municipality concerned shall send a notice of the appointment to the inspector in the municipality. R.S.O. 1950, c. 316, s. 32 (25); 1959, c. 83, s. 2 (2), *amended*.

**46.**—(1) A union school section may be formed consisting of a part of a township or parts of two or more townships and an adjoining city or separated town where the suburban school section or sections concerned, by a majority vote at a meeting of the ratepayers in such section or in each of such sections regularly called, approves of such formation, and such union is also approved by the urban board, and the union shall take effect on the 1st day of January next after the union has been confirmed by by-laws passed by the councils of the township and the city or separated town respectively, at the request of the boards of the suburban school section or sections and of the city or separated town. R.S.O. 1950, c. 316, s. 32 (2); 1960, c. 96, s. 9. <sup>Unions including city or separated town</sup>

(2) Where a union school section is established under subsection 1, the council of each municipality concerned shall appoint an arbitrator and the arbitrators shall meet before the 1st day of December in each year and shall determine what proportion of the annual requisition made by the board for school purposes shall be levied in the following year upon and collected from the taxable property of the public school supporters of the union school section in each municipality. <sup>Arbitrators to determine portion of annual requisition</sup>

Notification  
of decision

(3) The arbitrators shall notify the board and the municipalities concerned by registered mail of their decision forthwith after the making thereof.

Appeal from  
decision

(4) If the board or the council of any municipality concerned is not satisfied with the decision of the arbitrators, the board or any such council, within ten days of the receipt of the decision, may appeal to the judge of the county or district court of the county or district in which the union school section or any part thereof is situated and the judge shall determine the apportionment and his decision is final.

Appeal  
where no  
decision  
reached by  
arbitrators

(5) If the arbitrators do not reach a decision on or before the 1st day of December, the board shall appeal to the judge of the county or district court of the county or district in which the union school section or any part thereof is situated and the judge shall determine the apportionment and his decision is final. 1957, c. 101, s. 8, *part*.

Alteration  
and dissolu-  
tion

(6) Except as otherwise provided in this section, the provisions of section 45 with respect to the alteration or dissolution of a union school section apply to the alteration or dissolution of a union school section formed under this section. *New*.

Corporate  
name

**47.**—(1) Where an urban municipality forms part of a union school section, the board of trustees is a corporation by the name of "The Public School Board of.....of and Union School Section Number(s).....of ..... " (*inserting the name of the urban municipality in the first blank, the section numbers in the second blank and the names of the other municipalities in alphabetical order in the third blank*).

Idem

(2) Where parts of two or more townships form a union school section, the board of trustees is a corporation by the name of "The Public School Board of Union School Section Numbers.....and.....of the townships of.....and..... " (*inserting the names of the municipalities and numbers, the name of the municipality in which the school is located appearing first and the rest in alphabetical order*).

Portions  
in union  
school  
section to  
be numbered

(3) For the purposes of subsections 1 and 2, each township council shall by by-law designate that portion of the union section within the township by a number not already used in the township for a school section. 1957, c. 101, s. 8, *part*.

Appeal  
relating to  
union school  
within a  
county

**48.**—(1) Where the territory that it is proposed to form into a union section or the union section that it is proposed to alter or dissolve lies wholly within a county, the board or any five ratepayers in the territory or union section concerned, or

the inspector or inspectors, may within one month after the making thereof appeal in writing to the county council from any award made by the arbitrators either for or against the formation, alteration or dissolution of the section or against the neglect or refusal of the township council or councils concerned to appoint arbitrators as provided in section 45.

(2) On receipt of such appeal, the county council has power to appoint not more than three arbitrators, who shall neither be ratepayers in the territory or school section concerned, nor members of the municipal councils concerned, and the arbitrators have all the powers of arbitrators appointed under section 45 and the decision of a majority of them is final.

(3) The first meeting of the arbitrators shall be called by the county clerk. R.S.O. 1950, c. 316, s. 33.

**49.**—(1) Where territory that it is proposed to form into a union school section or the union school section that it is proposed to alter or dissolve lies in a territorial district or in two or more counties or includes a city or separated town, the board or any five ratepayers in the union school section or territory concerned, or any inspector or inspectors, may at any time appeal to the Minister from any award made by arbitrators for or against the formation, alteration or dissolution of the section or against the refusal or neglect of the council or councils concerned to appoint arbitrators as provided in section 45.

(2) The Minister may in his discretion alter, determine or confirm the award or, where no award has been made, he may appoint not more than three arbitrators who have all the powers of arbitrators appointed under section 45, and a decision of a majority of them is final.

(3) The first meeting of the arbitrators shall be called by the Minister. R.S.O. 1950, c. 316, s. 34, *amended*.

**50.** The collectors of each municipality in which a part of a union section is situate shall collect the school rates for that part, and the amount collected from the ratepayers in each part of the union section shall be paid by the respective collectors to the treasurer of the municipality in which such part of the union section is situate, and the treasurer shall pay over the same without any charge or deduction to the board entitled thereto. R.S.O. 1950, c. 316, s. 35.

**51.**—(1) Where a township is divided into two or more townships, all school sections that, in consequence of the division, are situate partly in each of the newly formed town-

ships shall be deemed union sections until otherwise altered under this Act. R.S.O. 1950, c. 316, s. 36, *amended*.

Renumbering  
of sections

(2) The councils of the newly formed townships shall by by-law designate a number for each school section and each part of a union school section within the municipality and each township school area the largest part of which lies within the township. *New*.

Election of  
trustees,  
and inspection  
of  
union school  
sections

**52.** Every union school section shall, for the purpose of the election of trustees, be deemed one section, and with respect to inspection shall be deemed to be within the municipality in which the schoolhouse is situate, or, if there are two or more schoolhouses, then in that municipality within which a schoolhouse is situate that has the largest amount of property assessed for public school purposes. R.S.O. 1950, c. 316, s. 37.

Where  
township  
ratepayers  
to vote  
when urban  
municipality  
divided into  
wards

**53.—**(1) Where a union school section includes an urban municipality divided into wards and part of an adjoining township, the board shall by resolution determine in which ward or wards the electors of the township shall vote for the election of school trustees and on other school questions, and in the absence of any such resolution, then such part of the township shall be considered for all election purposes as attached to the adjacent ward, and if two or more wards are adjacent, any such elector may vote in either of such wards.

List of  
voters

(2) The clerk of the township shall furnish to the clerk of the urban municipality a certified copy of so much of the last revised voters' list of the township as contains the names of electors qualified to vote in that portion of the union school section lying within the township. R.S.O. 1950, c. 316, s. 38.

Where part  
of a town-  
ship is  
annexed to  
urban muni-  
cipality

**54.—**(1) Where part of a township becomes incorporated as or is annexed to and becomes part of an urban municipality, such part shall for all school purposes be deemed to be part of the urban municipality, provided that when the part incorporated or annexed comprises or includes part only of a school section, the municipalities concerned, unless determined by agreement after the incorporation or annexation, shall each appoint an arbitrator who, with the judge of the county or district court, shall value and adjust in an equitable manner the rights and claims of all parties thereby affected, and shall determine by which municipality or part thereof the same shall be paid or settled.

Effect of  
award

(2) The award is final, and any money found due, either by agreement or under the award, shall be deemed public school money and is payable out of the property taxable for public school purposes in that part of the school section situate within the indebted municipality.



(3) Section 65 does not apply to the money required to be paid under the award or agreement, and debentures may be issued to be payable out of the property so taxable without calling a special meeting of the electors and upon the terms and conditions set forth in a by-law of the council of the municipality.

Issue of  
debentures

(4) Subject to the provisions of this Act as to the alteration of school boundaries and the formation of union school sections, where a part of a township so incorporated or annexed includes part only of a school section, the part remaining constitutes a school section by the same name as before the incorporation or annexation, and the school corporation continues, and the trustees who are in office at the time of the incorporation or annexation continue in office until their successors are elected and are the board of public school trustees for the part of the section not so included in the urban municipality, and the trustees may resume office or be elected for the section in case the board has been disbanded, and action may be taken by the township council at any time, as provided by this Act, to readjust the boundaries of the portion of the section that is not included in the urban municipality.

Status of  
the part of  
a school  
section  
that is not  
annexed

(5) Where urban municipalities become united, all the assets and liabilities of the board of each municipality are vested in and assumed by the board of the united municipality.

Disposition  
of assets  
and li-  
abilities upon  
union of  
municipalities

**55.**—(1) Except in the case of union school sections established under section 46, as often as the assessment of the part of a union section situate in one municipality has increased or decreased to the extent of 10 per cent of the amount of its assessment at the date of the last apportionment and has maintained such increased or decreased assessment for the second consecutive year, and, in any case, at the expiration of five years from the last apportionment, the assessors of the municipalities in which a union section is situate shall, before the 1st day of December, meet and determine what proportion of the annual requisition made by the board for school purposes shall be levied commencing in the following year upon and collected from the taxable property of the public school supporters of the union section situate in each of the municipalities in which the section lies, provided that upon the recommendation of the assessors and with the approval of the Minister, an apportionment may be made in any year.

Maintenance  
of union  
schools,  
apportion-  
ment by  
assessors

(2) Where the assessment of a union school section is materially altered by reason of any land therein becoming

Assessment  
altered by  
exemptions

exempt from taxation for public school purposes, the assessors at their next meeting shall revise the apportionment. 1957, c. 101, s. 9, *part*.

Meeting of  
assessors

(3) The meeting of the assessors shall be called by the assessor of the municipality in which the schoolhouse is situate.

Where more  
than one  
assessor

(4) Where there are more assessors than one, the head of the municipal corporation shall name the assessor who shall act. R.S.O. 1950, c. 316, s. 40 (4, 5).

Notice of  
determina-  
tion

(5) Notice of the determination shall be given forthwith to the secretary of the board, the clerk of each municipality and the public school inspector. R.S.O. 1950, c. 316, s. 40 (6), *amended*.

Arbitration  
where  
assessors do  
not reach a  
decision

(6) If the assessors do not reach a decision on or before the 1st day of December, the inspector in whose inspectorate the school of the union section is situate, and the assessors, shall be arbitrators and shall determine the matter and report to the secretary of the board and to the clerk of each municipality on or before the 31st day of December.

Where union  
school  
section in  
two counties

(7) Where the union school section is composed of parts of two adjoining counties and the assessors do not reach a decision on or before the 1st day of December, the inspector of the township in which the school of the union section is situate shall act with the assessors as arbitrators.

Duration of  
decision

(8) The decision of a majority of the arbitrators is final until the next apportionment takes effect. 1957, c. 101, s. 9, *part*.

Reconsider-  
ation of  
award

(9) The assessors or, in the case of an arbitration, the arbitrators, on the request in writing of the inspector or of five ratepayers may, within one month after the report of the determination or award to the secretary of the board, correct any omission or error in the terms in which the determination or award is expressed. R.S.O. 1950, c. 316, s. 40 (10).

Costs

(10) The cost of proceedings under this section, including the fees of assessors and arbitrators, shall be paid by the municipalities in accordance with the apportionment under subsection 1. 1957, c. 101, s. 9, *part*.

#### SECTIONS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

Formation of  
school sections  
in territory  
without  
municipal  
organization

**56.**—(1) Subject to the approval of the Minister, the inspector may form any part of territory without municipal organization into a school section. 1960, c. 96, s. 10 (1).

Limits of  
section,  
alterations

(2) The school section shall not exceed thirty-six square miles in area and, subject to this restriction, the boundaries

may, with the approval of the Minister, be altered by the Inspector from time to time. 1953, c. 90, s. 5 (1).

(3) The inspector on the petition of any head of a family who has a child attending school and who lives in one school section on land contiguous to another school section may alter the boundaries of the sections so as to transfer such land from one section to the other, but the transfer does not relieve the land from any taxation required to meet a liability incurred prior to the transfer, nor shall it be made unless in the opinion of the inspector it is more convenient for the child to attend the school in the section to which the transfer is requested. R.S.O. 1950, c. 316, s. 44 (3).

Inspector  
may trans-  
fer land to  
contiguous  
school  
section

(4) Any alteration of the boundaries of a school section under this section takes effect on the 1st day of January. 1953, c. 90, s. 5 (2), *amended*.

Effective  
date of  
alterations

(5) After the formation of a school section, any two rate-payers in the section may, by notice posted for at least six clear days in not less than three of the most public places in the section, appoint a time and place for a meeting for the election of three school trustees for the section. R.S.O. 1950, c. 316, s. 44 (4).

Election of  
school  
trustees

(6) The trustees elected at such meeting or at any subsequent school meeting of the school section have the powers and are subject to all the obligations of public school trustees, and may at any time after their election take the proper steps, in accordance with this Act, to raise funds for and purchase a school site and erect school buildings and provide equipment for the school. R.S.O. 1950, c. 316, s. 44 (5); 1953, c. 90, s. 5 (3).

Trustees'  
powers and  
obligations

(7) The trustees are a corporation and, where the school section includes part or all of one or more unorganized townships, shall be known as "The Public School Board of School Section No.....of the unorganized Townships of .....in the Territorial District(s) of .....(inserting a number selected by the inspector, the name of the township in which the school site is located, the names of other townships in alphabetical order and the name(s) of district(s))" and, where the school section includes only unsurveyed territory, shall be known as "The Public School Board of.....in the Territorial District(s) of.....(inserting a name selected by the inspector and the name(s) of the district(s))". 1960, c. 96, s. 10 (2).

Trustees to be  
corporation,  
name

**57.—**(1) The inspector shall divide the school sections into groups of three or as near thereto as practicable, and shall notify the secretary of each section of the group to which it belongs, and the grouping may be changed from year to year as the inspector may direct.

Sections to  
be divided  
into groups

Court of  
revision

(2) The treasurers of the boards in a group constitute a court for the revision of the school assessment rolls of the sections in the group and for the hearing and determination of any appeals against the same, and the members of the court shall be paid reasonable travelling expenses by their respective boards for their attendance.

When  
inspector to  
act as court  
of revision

(3) Where, from the sparseness of settlements, it would be inconvenient for a court of revision to meet for the revision of the assessment roll of any school section, the inspector, on the request of any board, may assume or may, by writing, appoint some other person to assume the functions of a court of revision for the section on behalf of which the request is made, and all the proceedings of the inspector or other person appointed by him in the matter are subject to this Act and have the same effect as if made in a court of revision constituted under subsection 2. R.S.O. 1950, c. 316, s. 45.

Annual  
assess-  
ment roll

**58.**—(1) The board shall, annually, at their first meeting, and not later than the 1st day of March in each year, appoint an assessor, who may be one of themselves, to prepare an assessment roll for the school section, and the secretary shall submit a certified copy of the roll to the proper court for revision.

Appoint-  
ment of  
assessor for  
new section

(2) Where a new school section is formed after the 1st day of March in any year, the appointment of an assessor shall be made as soon after its formation as possible.

Notice of  
assess-  
ment

(3) The assessor shall notify every person assessed by leaving a notice containing the particulars of his assessment at his place of residence, or, if a non-resident, by sending the notice by registered mail to his last known address, or, if his address is unknown, by posting up the notice in the post office nearest to the land assessed.

Assessor to  
make oath  
R.S.O. 1960,  
c. 23

(4) The assessor is subject to the provisions of *The Assessment Act* with regard to the equitable rating of all taxable property in the section, and shall, before returning his assessment roll to the secretary of the board, attach thereto a certificate signed by him and verified upon oath according to the form prescribed in *The Assessment Act*.

Return  
of roll

(5) The assessor shall return the assessment roll to the secretary not later than the 30th day of September of the year in which the assessment is made. R.S.O. 1950, c. 316, s. 46 (1-5).

Extension  
of time for  
return of  
roll

(6) Where in any year it appears to a school board that the assessment roll will not be returned on the 30th day of September, the board may, by resolution passed with the approval of the Minister, extend the time for the return of that assessment roll for such period not exceeding sixty days

subsequent to the 30th day of September as appears necessary, and when such a resolution is passed the time for closing the court of revision for that year is thereby extended for a period corresponding to that for which the time for the return of the assessment roll is extended. 1956, c. 73, s. 2 (1).

(7) A copy of the roll so certified shall be open to inspection <sup>Appeal against assessment</sup> by all persons interested at some convenient place in the school section, notice whereof signed by the secretary shall be posted up by him in at least three of the most public places in the section, and shall state the place and the time at which the court will hear appeals against the assessment.

(8) The notice shall be posted up for at least three weeks <sup>Posting up notice</sup> before the time appointed for hearing the appeals, and shall be sent by registered mail to the last known addresses of non-resident ratepayers.

(9) Subject to subsections 10 and 11, all appeals and the proceedings thereon shall be the same as nearly as may be as in the case of appeals to a court of revision from municipal assessments, and the court of revision has the same powers as municipal courts of revision. <sup>Manner of appeal</sup>

(10) The notice of appeal shall be given to the treasurer of the board within one month after the delivery, mailing and posting up of the notice provided for by subsection 3. <sup>Notice of appeal</sup>

(11) The court may appoint a competent person to be its clerk for each school section or one for all the school sections. <sup>Court clerk</sup>

(12) The assessor, when making his assessment, shall enter in a book to be provided by the board the name, age and residence of every child between the ages of five and twenty-one years resident in the section and the name and residence of such child's parents or guardian, and shall, with the assessment roll, return the book to the secretary, and the secretary shall include a copy of the particulars entered in the book in his annual report to the inspector. R.S.O. 1950, c. 316, s. 46 (6-11). <sup>School census</sup>

(13) An appeal to the district judge lies at the instance of the board, the assessor or any person assessed, not only against a decision of the court of revision on an appeal to such court but also against any omission, neglect or refusal of such court to hear or decide an appeal, and an appeal lies to the Ontario Municipal Board from a decision of the district judge, and sections 75 to 80 and 82 to 90 of *The Assessment Act* apply *mutatis mutandis* to every such appeal. R.S.O. 1950, c. 316, s. 46 (12); 1956, c. 73, s. 2 (2). <sup>Appeals</sup> <sup>R.S.O. 1960, c. 23</sup>

(14) The district judge is entitled to receive from the board as his expenses for holding court for the purpose of hearing appeals from the court of revision under this section, except <sup>Expenses of judge</sup>

where court is held in the district town, the same sums as he is allowed for holding courts for revising voters' lists.

Confirmed  
roll binding

(15) Subject to subsection 13, the roll, as finally passed and signed by the chairman of the court of revision, is binding upon the trustees and ratepayers of the school section until the roll for the succeeding year is passed and signed as aforesaid. R.S.O. 1950, c. 316, s. 46 (13, 14).

Assessment  
of part of  
unorganized  
territory in  
a school  
section that  
includes an  
organized  
municipality

**59.**—(1) Where any part of territory without municipal organization forms part of a school section that includes part or all of one or more organized municipalities, such part of the territory without municipal organization shall for public school purposes be deemed to be annexed to the organized municipality that has the greatest assessment for public school purposes in the school section, and the officers thereof shall make all assessments and collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to the part of the territory without municipal organization forming part of the school section as with respect to any part of the school section that lies within the organized municipality.

Estimates to  
include  
expenses of  
collection,  
etc., and  
allowances  
to be made

(2) The council of the organized municipality in preparing the estimates of the sums required to be raised by assessment and taxes under this section with respect to the part of territory without municipal organization that forms part of such a school section shall,

- (a) make allowance for the abatement of and discount on taxes, for uncollectable taxes and for taxes that it is estimated will not be collected during the year in such part of the territory without municipal organization; and
- (b) include the proper proportion of the salaries and expenses of the officers making the assessments and collecting the taxes having regard to the ratio that the assessment in that part of the territory without municipal organization bears to the total assessment of the union section. 1958, c. 88, s. 7.

Issuing de-  
bentures for  
school sites  
and houses

**60.**—(1) In territory without municipal organization, the board of a school section may issue debentures for the purchase of a school site and the erection of a schoolhouse for such amounts and for such term of years, not exceeding thirty, as the board sees fit, or the board may direct that the principal and interest shall be repayable by annual or other instalments in the manner provided in *The Municipal Act*, provided that the issue of the debentures has been sanctioned at a special meeting of the ratepayers of the section.

R.S.O. 1960,  
c. 249

(2) The debentures shall be signed by the trustees and sealed with the corporate seal of the board, and are a charge upon the taxable property of the public school supporters of the section. R.S.O. 1950, c. 316, s. 48.

**61.**—(1) The board of a school section may appoint some competent person, who may be a member thereof, to collect the rates imposed by them upon the ratepayers of the section, or the sums that the inhabitants or others may have subscribed, and may pay to the collector at the rate of not less than 5 per cent and not more than 10 per cent on the moneys collected by him, and every collector shall give security satisfactory to the board, and the security shall be lodged for safe keeping with the inspector.

(2) A collector has the same powers in collecting the school rate or subscriptions, and is under the same liabilities and obligations and shall proceed in the same manner in the school section, as a township collector in collecting rates in a township as provided in *The Assessment Act*.

Signing and  
sealing  
debentures  
  
Appoint-  
ment and  
duties of  
school  
collector  
  
Powers and  
liabilities of  
school  
collector

R.S.O. 1960,  
c. 23

(3) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return with the year for which the rates so in arrear were imposed.

Return of  
arrears of  
taxes in un-  
organized  
territory

(4) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Entry in  
sheriff's  
book

(5) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

Payments  
of arrears  
thereafter

(6) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

When  
arrears to  
be paid to  
sheriff

(7) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation

Sale of land  
for arrears

to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same as nearly as may be as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality. R.S.O. 1950, c. 316, s. 49.

Collection  
of rates in  
unorganized  
areas by  
action

**62.** In addition to any other remedy possessed by public school trustees in territory without municipal organization for the recovery of rates imposed under the authority of this Act, the trustees, with the approval of the inspector in writing signed by him, may bring an action in a court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. R.S.O. 1950, c. 316, s. 51.

#### BORROWING POWERS

Debentures  
for per-  
manent  
improve-  
ments

**63.—(1)** Subject to the approval of the Ontario Municipal Board, the sums required by an urban board or a township school area board for permanent improvements may be raised on the application of the board by the issue of municipal debentures as provided herein.

Application

(2) The application shall be made to the council or councils having jurisdiction in the area for which the board making the application was established, and in it the board may state the proposed terms of years, not exceeding thirty, within which the sum required is to be repaid.

Council to  
deal with  
application

(3) The council or, if more than one, each of the councils applied to, at its first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove the application, and if a vote in any council results in a tie the application shall be deemed to be disapproved by that council.

Issue of  
debentures

(4) If the council, or a majority of the councils where there are more than one, approves of the application, the council of the municipality within which the school is or is to be situated shall raise the sum required by the issue of debentures in the manner provided in *The Municipal Act*, or if it so desires the council of any municipality may raise its proportion of the sum required by the issue of its own debentures or in a township school area a municipality other than the one in which the school is situated or is to be situated may raise the sum required by the issue of debentures.

R.S.O. 1960,  
c. 249

Submission  
of applica-  
tion to vote  
of electors

(5) If the council, or half or a majority of the councils where there are more than one, disapproves of the application, the council or each of the councils on the request of the board shall submit the application to a vote of the electors of its



municipality, or of the part thereof included in the area for which the board was established, who are qualified under *The Municipal Act* to vote on money by-laws and who are supporters of public schools under the jurisdiction of the board, in the manner provided in *The Municipal Act* in the case of a money by-law. R.S.O. 1960, c. 249

(6) Where the board requests that the application be submitted by the council or each of the councils, as the case may be, to a vote of the electors, unless the board otherwise agrees, the vote shall be held within ninety days after the receipt of the request from the board. When vote to be held

(7) If a majority of the votes cast throughout the area for which the board was established is in favour of the application, the sum required to be raised by the issue of debentures shall be raised as provided in subsection 4, but without submitting the by-law to the electors. When vote favourable

(8) The council or councils having jurisdiction in the area for which the board was established or a majority of them may pass by-laws for the purpose of raising or borrowing money required by the board for permanent improvements without submitting the by-laws to a vote of the electors. Assent of electors not required

(9) A debenture may be for such term of years, not exceeding thirty, as the council or councils concerned or a majority of them deem proper, or the council or councils or a majority of them shall if the board has so requested and may, without such request, make the debenture debt payable by annual or other instalments in the manner provided in *The Municipal Act*. Terms of debentures

(10) The council or councils of a municipality or municipalities liable for more than one-half of such debt shall be deemed to be a majority for the purposes of subsections 4, 5 and 8. Interpretation

(11) The debentures and the money to be raised annually for payment thereof are chargeable only upon the property of ratepayers who are supporters of public schools under the jurisdiction of the board that requested the issue of debentures. Chargeable only on property of public school supporters

(12) Where a municipality has raised money for the purposes of a board by the issue and sale of debentures, or by the hypothecation of debentures or temporary financing pending the sale of debentures, it shall pay over such money to the board from time to time as the board may require. 1957, c. 101, s. 11, *part*. Payments to boards

(13) Where a township school area or a union school section that includes an urban municipality comprises two or more municipalities or parts thereof, subsection 6 of section 65 applies to such municipalities. 1958, c. 88, s. 9; 1959, c. 83, s. 3. Municipalities in township school area to pay in proportion

Powers  
where board  
of education  
has juris-  
diction

**64.** The council of a township over which a board of education has jurisdiction, upon the application of the board of education, has the same powers to pass by-laws for borrowing money by the issue and sale of debentures as are conferred on the council of an urban municipality under section 63 and section 63 applies *mutatis mutandis*. 1957, c. 101, s. 11, *part*.

Sanction by  
ratepayers  
in rural  
school  
section

**65.**—(1) Every application of a rural school board, except a township school area board, for the issue of debentures for permanent improvements shall be made as provided in subsection 2 of section 63 but shall first be sanctioned, at a special meeting called for the purpose, by the ratepayers of the school section who are qualified under *The Municipal Act* to vote on money by-laws and who are supporters of the public schools under the jurisdiction of the board.

R.S.O. 1960,  
c. 249

Sanction by  
ratepayers  
in rural  
union school  
section

(2) Where there is more than one municipality having jurisdiction in a rural union school section, the application shall be sanctioned in accordance with subsection 1, unless the councils of each municipality, or of a majority of the municipalities where there are more than two which or part of which are included in the union school section, have approved of the application.

Interpre-  
tation

(3) The council or councils of a municipality or municipalities liable for more than one-half of such debt shall be deemed to be a majority for the purposes of subsection 2.

Issue of  
debentures

(4) Upon the application of a rural school board, the council of the municipality or, if more than one, the council of the municipality within which the school is or is to be situated shall raise the sum required by the issue of debentures in the manner provided in *The Municipal Act*, or if it so desires the council of any municipality may raise its proportion of the sum required by the issue of its own debentures.

Power to  
issue  
debentures

(5) The council of a municipality under this section has the same powers to pass by-laws for borrowing money by the issue and sale of debentures as are conferred on an urban municipality by section 63, and subsections 9, 11 and 12 of section 63 apply *mutatis mutandis*. 1957, c. 101, s. 12.

Muni-  
cipality form-  
ing part  
of union  
section to  
pay in  
proportion

(6) The corporation or corporations of any other municipality or municipalities forming, or any part of which forms, part of the union section shall, on the requisition of the clerk of the municipality by which the debentures were issued, pay its or their share of the loan, including interest as it comes due according to its or their liability as determined by section 55.

How  
payable

(7) The proportion of the moneys payable by the corporation of each of the municipalities is payable out of the taxable

property of the public school supporters therein lying within the school section.

(8) The expenses of preparing and publishing any by-laws or debentures, and all other expenses incident thereto, shall be paid by the school section on whose behalf the debentures were issued, and the amount of the expenses may be deducted from any school rates collected by the municipal council for the section. Expenses of publishing by-laws

(9) Notwithstanding any alterations that may be made in the boundaries of a school section, the taxable property of the public school supporters situate therein at the time when the loan was effected continues to be liable for the rate that may be levied for the repayment of the loan. Liability for loan where boundaries altered

(10) When upon alteration of boundaries of a school section lands are included therein that are taxable property of public school supporters, such lands are subject to taxation for school purposes, including debenture rates, of the school section to which they are attached in the same manner and to the same extent as all other taxable property of public school supporters in the school section; provided that, if the lands so attached continue liable for debenture rates for the purposes of the school section from which they are detached, they are during the continuance of such liability, subject only to taxation for school debenture rates in the school section to which they are attached, to the amount by which such last-mentioned debenture rates exceeds the amount of the debenture rates for which they have continued liable. R.S.O. 1950, c. 316, s. 58 (5-9). Lands included in section by reason of alteration in boundaries to be subject to taxation

**66.**—(1) Subject to subsection 5 of section 10, a township school area board may, and any other rural school board with the approval of the ratepayers of the school section may, require the council to raise by one yearly rate such sums as may be necessary for the purchase or enlargement of a school site, or the erection of a schoolhouse, or an addition thereto, or a teacher's residence. R.S.O. 1950, c. 316, s. 59 (1); 1960, c. 96, s. 12. School property may be paid for by one special rate

(2) A municipal council shall not levy or collect during any one year more than one school rate except for one or more of the purposes mentioned in subsection 1. R.S.O. 1950, c. 316, s. 59 (2). Council not to levy more than one rate except in certain cases

**67.** A rural school board may, with the consent of the ratepayers first obtained at a special meeting called for the purpose, by resolution authorize the borrowing from any municipal corporation of any surplus moneys of the corporation or in the Ontario Municipalities Fund for such term and at such rate of interest as may be set forth in the resolution Rural school board may borrow surplus moneys

for the purpose of any permanent improvement, and any sum so borrowed shall be applied only to the purpose for which it was borrowed. 1960, c. 96, s. 13.

Cost of borrowing advance to board before sale of debenture

**68.** Where the issue of a debenture by a municipality for permanent improvements by a board has been approved by the Ontario Municipal Board and the council of the municipality borrows and advances money to the board before the sale of the debenture for the purposes of the undertaking for which the issue of the debenture is required, the council may charge the cost of such borrowing to the board for the period before the sale for which the money is borrowed or for a period of one year, whichever is the lesser. 1960, c. 96, s. 14.

#### RATES

Councils to levy sums required by trustees

R.S.O. 1960, cc. 249, 23

**69.**—(1) The council of every local municipality shall levy and collect upon the taxable property of the public school supporters of the municipality, or of the sections in the case of rural schools, in the manner provided in this Act and in *The Municipal Act* and *The Assessment Act*, such sums as may be required by the board for school purposes, and shall pay them to the treasurer of the board from time to time as may be required by the board on the warrant of the proper inspector.

Rates in union sections

(2) In the case of a union school section formed of parts of townships, the sums levied and collected from the ratepayers by township councils shall be levied and collected by the several councils out of the taxable property of the public school supporters of the union school section, each in the proportion that such taxable property within its jurisdiction bears to the taxable property of public school supporters in the whole union section.

And to account for same

(3) Every municipal council shall annually account for all moneys collected for public school purposes, including any sum that has been collected in excess of the sums disbursed, on account of the public school or schools within the municipality or school section, and shall pay over the same to the school board of the municipality or of the section. R.S.O. 1950, c. 316, s. 61.

Apportionment of school money by township councils

**70.** The council of every township may by by-law apportion among the school sections in the township the principal or interest of any investments held by the corporation for public school purposes according to the salaries paid to the teachers engaged by the respective boards during the past year, or according to the average attendance of pupils in each section who reside in the township during the same period. R.S.O. 1950, c. 316, s. 55, *amended*.

**71.**—(1) In addition to any sums that the council of a municipality may be bound to levy and collect under any section of this Act, the council of any municipality may make grants as it may deem expedient for the purposes of public schools within the municipality, and may assess, levy and collect the sums required to pay the grants by general rate upon all taxable property of public school supporters in the municipality.

Additional grants for school purposes

(2) The purposes for which the rate mentioned in subsection 1 may be raised include, but are not limited to, the establishment and maintenance of school corporations, aiding new or weak schools or continuation schools or fifth classes in the municipality, or the supplementing of teachers' salaries or retiring allowances. R.S.O. 1950, c. 316, s. 62.

Purposes for which aid may be granted

**72.** Every municipal council shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be to the end that no property shall escape from or be compelled to pay more than its proper proportion of the rate. R.S.O. 1950, c. 316, s. 63.

Correction of errors in collection of rates in previous years

**73.**—(1) Where in any municipality situate in a county there are persons entered on the assessment roll as public school supporters and there is no public school to which public school rates levied by the council of the municipality can be applied, there shall be assessed, levied and collected annually on the property of all persons assessed as public school supporters in the municipality a rate equal to the average public school rate levied in the county for boards of public school trustees of villages, and of towns not separated from the county and of school sections, and the moneys so raised shall be set apart or invested by the council of the municipality in the manner provided by section 317 of *The Municipal Act*. R.S.O. 1950, c. 316, s. 64 (1).

Levying school rate where there is no public school in a municipality

R.S.O. 1960, c. 249

(2) In urban municipalities situate in a territorial district where a like condition exists, the rates to be so levied on public school supporters shall be equal to those levied in the nearest urban municipality. R.S.O. 1950, c. 316, s. 64 (2); 1959, c. 83, s. 4 (1).

Rates in urban municipalities

(3) In rural school sections in townships situate in a territorial district where a like condition exists, the rates to be so levied on public school supporters shall be equal to the average rate levied on public school supporters in the other rural school sections in the same township in which there is a public school, or, if there be none, then equal to the rate levied on public school supporters in the nearest rural school section

Rates in rural school sections

outside the township in which there is a public school. R.S.O. 1950, c. 316, s. 64 (3); 1959, c. 83, s. 4 (2).

#### POWERS AND DUTIES OF BOARDS

Duties of  
boards:

**74.—(1)** A public school board shall,

operate  
schools  
R.S.O. 1960,  
cc. 361, 94

(a) operate schools under its charge in accordance with the provisions of this Act, *The Schools Administration Act*, *The Department of Education Act* and the regulations thereunder; R.S.O. 1950, c. 316, s. 93, *part, amended*.

submit  
estimates

(b) prepare and submit to the municipal council on or before such time as the council may prescribe, estimates for the current year of all sums required to be provided to meet expenditures for the schools under its charge, and the estimates shall show the amount of any surplus or deficit remaining at the end of the preceding year and any revenues estimated to be derived by the board during the current year from all sources; R.S.O. 1950, c. 316, s. 93, cl. (r).

school  
open

(c) keep open each school during the whole period of the school year, except where it is otherwise provided by this Act; R.S.O. 1950, c. 316, s. 93, cl. (j), *part*.

provide  
and pay

(d) provide and pay,

(i) the salaries of employees of the board,

(ii) repairs to buildings,

(iii) furnishings,

(iv) fuel

(v) light,

(vi) stationery,

(vii) equipment,

(viii) insurance

(ix) travelling expenses of trustees and officers of the board, and

(x) miscellaneous expenses incurred under the authority of the board. R.S.O. 1950, c. 316, s. 93, cl. (q).

Powers of  
board:

**(2)** A public school board may,

hold  
property

(a) take possession of all property acquired or given for public school purposes and hold it according to the terms on which it was acquired or given;

- (b) dispose, by sale or otherwise, of any school site or <sup>sell</sup> property not required in consequence of a change of <sup>property</sup> site or other cause, and convey the same under the corporate seal of the board, and apply the proceeds thereof for school purposes or as directed by this Act; R.S.O. 1950, c. 316, s. 93, cl. (u).
- (c) establish, <sup>kindergartens, etc.</sup>
- (i) kindergartens,
  - (ii) classes in industrial arts training and household economics,
  - (iii) school gardens, and
  - (iv) auxiliary and academic-vocational classrooms; R.S.O. 1950, c. 316, s. 93, cl. (j), *part*.
- (d) in cities of 100,000 population and over, provide, <sup>deaf and dumb and blind</sup> subject to the approval of the Minister, special classes for the instruction of the blind or deaf and dumb pupils residing within the municipality; R.S.O. 1950, c. 316, s. 93, cl. (zc).
- (e) provide and pay for such equipment as may be <sup>agriculture</sup> necessary for the teaching of agriculture;
- (f) contribute toward the support of rural school fairs; <sup>school fairs</sup> R.S.O. 1950, c. 316, s. 93, cl. (zd).
- (g) exempt any indigent person from the payment of <sup>exempt</sup> school taxes or fees, in whole or in part, in which case it shall notify the clerk of the municipality of such exemption on or before the 1st day of August; R.S.O. 1950, c. 316, s. 93, cl. (p), *part*.
- (h) provide for surgical treatment of children attending <sup>surgical treatment</sup> the school suffering from minor physical defects, where in the opinion of the teacher and, where a school nurse and medical inspector are employed, of the nurse and medical inspector, the defect interferes with the proper education of the child, and include in the estimates for the current year the funds necessary for cases where the parents are not able to pay, provided that no such treatment shall be undertaken without the consent of the parents or guardian of the child. R.S.O. 1950, c. 316, s. 93, cl. (zb).
- (3) A public school board of a rural school section that is <sup>Duties of rural board:</sup> not a township school area shall,
- (a) at the first meeting of the board, examine the school- <sup>examine property</sup> house, outbuildings, school furniture, maps and apparatus, with a view to ascertaining what repairs or improvements may be necessary;

- custodian (b) make suitable provisions for heating the schoolhouse and keeping the schoolhouse and premises in a clean and sanitary condition; and
- deaf and dumb and blind (c) ascertain and report to the Minister at least once in each year the names and ages of all children of school age who are blind or who are deaf and dumb and who would otherwise be required to attend the school under its charge. R.S.O. 1950, c. 316, s. 93, cls. (d, k), *amended*.
- Borrowing for teachers' salaries (4) A public school board of a rural school section may borrow on the promissory note of the board, under its corporate seal, at interest not exceeding 8 per cent per annum, such moneys as may be required for the payment of a secretary's salary and teachers' salaries until the taxes imposed therefor are collected. R.S.O. 1950, c. 316, s. 93, cl. (s), *amended*.

Employing teachers in charitable institutions

**75.** The board of a city may, when so requested in writing by a charitable organization having the charge of children of school age, employ and pay teachers for the education of such children and pay for and furnish school supplies for their use, whether or not such children are being educated in premises within or beyond the limits of the city, and any children being so educated are subject to this Act and the regulations. R.S.O. 1950, c. 316, s. 95.

#### GENERAL

Appeal to county council from township by-law

**76.**—(1) A board or any five ratepayers of any one or more of the school sections concerned, may within twenty days, by notice filed in the office of the county clerk, appeal to the county council of the county in which the section or sections are situate against any by-law of the township council for the formation, division, union or alteration of their school section or sections, or against the neglect or refusal of the township council, on application being made to it by a board or any five ratepayers concerned, to form, unite, divide, or alter the boundaries of, a school section or school sections within the township.

Time for appeals

(2) The time for appeal shall run from the date of the by-law complained of or from the date of the meeting at which the council refused to pass the by-law, or from the second meeting after which notice was received by the clerk of the application of the board or ratepayers asking for the by-law to be passed, as the case may be. R.S.O. 1950, c. 316, s. 21 (1, 2).



(3) On receipt of the notice of appeal, the county council shall either, Arbitration

(a) dismiss the appeal; or

(b) appoint a board of arbitrators consisting of not less than three and not more than five competent persons, one of whom shall be the county judge or some person named by him, and one of whom shall be the inspector, and a majority of whom form a quorum, and the arbitrators shall hear the appeal and, subject to subsection 3 of section 11, shall form, divide, unite, or alter the boundaries of, the school section or school sections so far as to settle the matters complained of. 1954, c. 79, s. 3.

(4) Due notice of the alteration or of the determination of the arbitrators shall be given by the inspector to the clerk of the township and to the school boards concerned. Notice

(5) In a territorial district, the appeal is to a board of three arbitrators composed of the judge of the district court or some person named by him, the inspector, and some person appointed by by-law or resolution of the township council, and Appeals in territorial districts

(a) the notice of appeal shall be given to the clerk of the township, the inspector and the judge;

(b) the township council, at its first meeting after service of the notice upon the township clerk, shall appoint their arbitrator, and the clerk of the township shall forthwith notify the inspector of the appointment;

(c) the judge, upon receipt of the notice of appeal, shall notify the inspector in writing of his willingness to act as arbitrator, or shall name some person to act in his stead and notify the inspector in writing of the appointment; and

(d) when the board is complete, the judge or his nominee shall convene the first meeting of the board and he shall be chairman thereof. R.S.O. 1950, c. 316, s. 21 (4, 5).

(6) The alterations or determination of such matters, except as otherwise provided herein, do not take effect before the 1st day of January in the year following that in which the award is made, and shall continue in full force for the period of at least five years, and thereafter until changed under this Act. R.S.O. 1950, c. 316, s. 21 (6), *amended*. When alterations or determination of appeal to take effect, duration

(7) No person shall be nominated or appointed arbitrator who is a member of the township council or who was a member Who may act as arbitrators

at the time at which the council passed or refused or neglected to pass the by-law. R.S.O. 1950, c. 316, s. 21 (7).

Adjust-  
ment of  
claims be-  
tween  
sections

**77.**—(1) Except as provided in sections 40 and 42, on the formation, dissolution, division or alteration of any school section or sections in the same township, the inspector and two other persons appointed by the township council shall, as arbitrators, value, adjust and determine in an equitable manner all rights and claims consequent upon such formation, dissolution, division or alteration between the respective parts of the township affected, and the determination of the arbitrators or of any two of them is final. R.S.O. 1950, c. 316, s. 29 (1); 1956, c. 73, s. 1, *amended*.

Where more  
inspectors  
than one

(2) Where there are more inspectors than one, the township council shall name the inspector who is to act. R.S.O. 1950, c. 316, s. 29 (2).

School  
sections  
and union  
sections  
confirmed

**78.**—(1) When a school section or a union school section has existed in fact for three months and upwards and whether it has been formed in accordance with the provisions of the law or not, it shall be conclusively deemed to have been legally formed and shall continue to exist, subject however to this Act as far as applicable, as if such section had been formed thereunder, unless in the meantime proceedings have been taken calling in question the legal status of the section and notice thereof has been given to the persons who, according to the practice of the court in which the proceedings are taken, ought to be served with notice thereof, and such proceedings result in its being determined that the section has not been legally formed.

When  
award  
may be  
cancelled

(2) Where the boundaries of one or more school sections have been altered by the award of a board of arbitrators under this Act and the award has not been acted upon for a period of two years, the Minister may cancel the award and may direct the appointment of new arbitrators or may himself appoint arbitrators for the reconsideration of the matter, and, where the arbitrators are appointed by the Minister, their award is not subject to any appeal.

When  
cancellation to take  
effect

(3) Where an award is cancelled by the Minister as provided in subsection 2, the cancellation shall be deemed to have had effect from the time of the making of the award.

No proceed-  
ing invali-  
dated unless  
where  
substantial  
injustice

(4) No proceeding in or in relation to the formation, alteration or dissolution of a rural school section or of a union school section, and no arbitration or award in reference thereto or as to any matter that by this Act is to be or may be determined by arbitration shall be deemed to be invalid or shall be set aside because of the failure to comply with the provisions of

this Act applicable to the proceeding, arbitration or award, unless, in the opinion of the tribunal before which the proceeding, arbitration or award is called in question, the same, if allowed to stand, will cause substantial injustice to be done to the persons affected thereby, or some of them.

(5) Should any question arise touching the validity of the proceedings in or in relation to the formation, alteration or dissolution of a rural school section or of a union school section, or touching the selection, adoption or change of a school site, or touching any by-law of the council of any municipal corporation in any way relating to such matters or any or either of them, or touching any arbitration or award heretofore or hereafter had or made under this Act, the same shall not be raised or determined by action or proceeding in the Supreme Court, but shall be raised, heard and determined upon a summary application to the judge of the county or district court of the county or district in which the school section or some part thereof is situate, and the decision of the judge is final unless special leave to appeal therefrom is given by the Supreme Court or a judge thereof, and if such leave is given an appeal lies to the Supreme Court upon questions of law only, upon and subject to such terms and conditions as the Court or judge giving the leave prescribes.

Jurisdiction  
of county  
or district  
judge

(6) Where the question touches an arbitration or award to which the judge has been a party, the application shall be heard and determined by the judge of the county or district court of the adjoining county or district that has the largest population according to the last federal census. R.S.O. 1950, c. 316, s. 31, *amended*.

Appeals  
where judge  
is  
arbitrator

**79.**—(1) Where it appears to the Minister that owing to the condition of the roads or other causes the public school in any school section in any township is inaccessible during certain months of the year to any of the pupils entitled to attend the school, the Minister may require the council to form a new school section or the board to provide a second school in their section, or to provide transportation to and from the school for such pupils.

Establish-  
ment of  
second  
school  
where roads  
impassable

(2) The Minister may provide that the second school be opened during such months of the year as he may deem necessary and may prescribe the area from which pupils shall have the right to attend the second school. R.S.O. 1950, c. 316, s. 43 (1, 2).

Determining  
months  
in which  
second  
school to  
be open

(3) Section 3 of *The Schools Administration Act* does not apply to a school established under this section, but nothing herein relieves the pupils attending the second school from attendance at the public school of the school section during

Attendance  
at school  
when second  
school  
closed  
R.S.O. 1960,  
c. 361

those periods of the school year in which the second school is closed, nor relieve the board of the school section from the duty of providing school accommodation for such pupils during such periods. R.S.O. 1950, c. 316, s. 43 (4); 1958, c. 88, s. 6.

Admission of pupils from school section to public schools of another section or to Indian schools

**80.**—(1) A public school board may provide for the admission of pupils of the section to the public schools of any other school section or to an Indian school under the supervision of a public school inspector, subject to the approval of the Minister and of the board of such other school section or authority having control of the Indian school, and the accommodation provided under such arrangement shall be taken in lieu of the accommodation that the board is required by this Act to make for the pupils of the section.

Closing of school by board

(2) Where a public school board has arranged under subsection 1 for the admission of all the pupils of the school section to the public schools of another school section, the board may close the schools of the section for the period during which such arrangement is in effect. R.S.O. 1950, c. 316, s. 91 (2); 1959, c. 83, s. 8 (1), *amended*.

Closing of school by Minister

(3) Where in any school section there are for two consecutive years less than eight persons between the ages of five and fourteen years residing therein, the Minister may direct that the public school of the section shall no longer remain open, and the school shall thereupon be closed until the Minister otherwise directs. R.S.O. 1950, c. 316, s. 91 (1).

Fees and travelling expenses

(4) The board may levy and collect upon the taxable property of the section such further sum as may be necessary to pay the fees of pupils attending the schools of another school section or Indian schools and to pay for the conveyance of the pupils to and from such schools as well as such other sums as the board may deem expedient or as may be required by the Act. R.S.O. 1950, c. 316, s. 91 (5).

Certain by-laws and awards to be valid unless notice to quash given

**81.**—(1) A by-law of a municipal council for forming, altering or dissolving a school section, and an award made by arbitrators appointed to consider an appeal from a township council with respect to any matter authorized by this Act, is valid and binding, notwithstanding any defect in substance or form or in the manner or time of passing or making the same, unless notice of an application to quash the by-law or to set aside the award is given to the township clerk within one month after the publication of the by-law or award, and the same is subsequently quashed or set aside.

What deemed publication of by-law

(2) The by-law or award shall be deemed to be published when a copy thereof is served upon the secretary of each board of trustees affected thereby.

(3) Arbitrators appointed under any of the provisions of this Act shall make their award within one month from the time when the last arbitrator was appointed; provided, however, that the county or district judge may extend the time for making an award upon application to him by the arbitrators either before or after the time for making the award has expired. R.S.O. 1950, c. 316, s. 42.

**82.** No by-law of a municipal council passed after the 14th day of April, 1892, for exempting any part of the rateable property in the municipality from taxation in whole or in part shall be held or construed to exempt the property from school rates of any kind. R.S.O. 1950, c. 316, s. 52.

**83.—(1)** The clerk of every township shall give to the inspector, when requested by him, a statement of the assessed value of each school section as shown by the last revised assessment roll and, at the request of any board, shall furnish the board with a statement showing the several parcels or lots of land composing the school section, the assessment of each parcel or lot and the amount of taxes entered on the collector's roll against each parcel or lot, and the cost of preparing this statement shall be paid by the board applying for the same.

(2) The clerk of every township in which a school section is situate that is wholly or in part united to an urban municipality, shall give to the clerk of the urban municipality such information as may be required regarding population and assessment in connection with the section. R.S.O. 1950, c. 316, s. 54.



## CHAPTER 331

## The Public Service Act

## 1. In this Act,

Interpre-  
tation

- (a) "civil servant" means a person appointed to the service of the Crown by the Lieutenant Governor in Council or by a minister, but does not include the persons or classes of persons designated by the regulations, and "civil service" has a corresponding meaning;
- (b) "Commission" means the Civil Service Commission;
- (c) "Crown" means the Crown in right of Ontario;
- (d) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (e) "regulations" means the regulations made under this Act;
- (f) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 317, s. 1 (1); 1959, c. 84, s. 1, *amended*.

2.—(1) The commission known as the Civil Service Commission is continued and shall consist of not more than three persons appointed by the Lieutenant Governor in Council, one of whom may be appointed chairman. R.S.O. 1950, c. 317, s. 2 (1).

Civil  
Service  
Commission

(2) The Commission is responsible to the Minister for the administration of this Act. 1959, c. 84, s. 2.

Adminis-  
tration of  
Act

(3) The Commission shall,

Duties

- (a) examine and pass upon the qualifications of nominees for the civil service;
- (b) assign nominees for the civil service and civil servants to classifications prescribed by the regulations and specify the salary payable;
- (c) determine the value of perquisites of civil servants;
- (d) study the organization and administration of the staffs of the departments and make such recom-

mendations to the Lieutenant Governor in Council as it deems proper with respect to,

- (i) the organization and administration methods in any department,
- (ii) the co-ordination of the work of the departments, and
- (iii) generally, the improvement of the civil service;
- (e) investigate and report to the Lieutenant Governor in Council upon any matter relating to the civil service or a civil servant referred to it by the Lieutenant Governor in Council; and
- (f) present annually to the Lieutenant Governor in Council a report upon the performance of its duties during the preceding fiscal year, which report shall be laid before the Assembly at the next session of the Legislature. R.S.O. 1950, c. 317, s. 2 (2).

Appoint-  
ments

**3.—**(1) The Lieutenant Governor in Council may appoint such persons to the civil service as he deems requisite or as may be required under any Act.

Temporary  
appoint-  
ments

(2) A minister may appoint such persons to the civil service in any department over which he presides as he deems requisite or as may be required under any Act, but any such appointment shall not be for a longer period than one year.

Certifica-  
tion by  
Commission

(3) No person shall be appointed as a civil servant until the Commission has certified to the Lieutenant Governor in Council or the minister, as the case may be, that the person is qualified and has assigned him to a classification and specified the salary to which he is entitled in accordance with the regulations. R.S.O. 1950, c. 317, s. 3.

Oaths of  
allegiance,  
office and  
secrecy

**4.—**(1) Every civil servant shall before any salary is paid to him take and subscribe before the Clerk of the Executive Council or a person designated by the Lieutenant Governor in Council, the oath of allegiance in the following form:

I....., do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second (*or the reigning sovereign for the time being*), Her heirs and successors according to law. So help me God.

and the oath of office and secrecy in the following form:

I....., do swear that I will faithfully discharge my duties as a civil servant and except as I may be legally authorized or required I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant. So help me God.



(2) The Clerk of the Executive Council and the persons designated by the Lieutenant Governor in Council to administer oaths shall keep records of the oaths that they administer. Record of oaths  
R.S.O. 1950, c. 317, s. 4.

5. Except as otherwise provided, every civil servant shall be retired upon attaining the age of sixty-five years. Age of retirement  
R.S.O. 1950, c. 317, s. 5, *amended*.

6. Where a civil servant or former civil servant, Special fitness

(a) has attained the age of sixty-five years; and

(b) on account of his peculiar skill and fitness for his position it is in the public interest so to do,

the Lieutenant Governor in Council may re-appoint him, but such re-appointment shall not be for a longer period than one year at a time and is not renewable for more than five years in all unless the re-appointment is to a different position and does not limit the possibilities of promotion of other civil servants. R.S.O. 1950, c. 317, s. 6 (1)

7.—(1) Notwithstanding subsection 3 of section 3 and sections 5 and 6, the Lieutenant Governor in Council may appoint in any special capacity not included in the classification schedules made under the regulations any person who is receiving a superannuation allowance and who has professional, expert or technical knowledge that he desires to have at his disposal for any period not exceeding the maximum period prescribed by the regulations. Appointment of super-annuates

(2) Sections 6 and 16 of *The Public Service Superannuation Act* do not apply to a person appointed under this section. R.S.O. 1960, c. 332 ss. 6, 16 not to apply  
1958, c. 89, s. 1, *amended*.

8.—(1) A deputy minister has the general control of his department and has such other powers and shall perform such other duties as are assigned to him by the Lieutenant Governor in Council. Deputy minister, powers and duties  
R.S.O. 1950, c. 317, s. 7 (1).

(2) With the consent of his minister, a deputy minister may delegate in writing any of his powers or duties to any civil servant in his department. delegation of powers, duties  
1960, c. 97, s. 1.

(3) Where a deputy minister is absent or there is a vacancy in the office, his powers and duties shall be exercised and performed by such civil servant as is designated by the minister of the department. vacancy in office

(4) With the consent of his minister a deputy minister may suspend from employment any person in his department who refuses or neglects to obey his directions. power to suspend  
R.S.O. 1950, c. 317, s. 7 (2, 3).

Debts of  
civil  
servants

**9.** When a creditor of a civil servant files with the Treasurer,

- (a) a notice that a debt or money demand of not less than \$25, not being a claim for damages, is due and owing to him from a civil servant, either on a judgment or otherwise; and
- (b) such proof as the Treasurer requires that the debt or money demand is owing,

the Treasurer may deduct from the salary of the civil servant or from any money owing to him from the Crown, such amount as the Treasurer sees fit in the circumstances and pay the amount to the creditor in discharge or partial discharge of the debt or money demand. R.S.O. 1950, c. 317, s. 8.

Regula-  
tions

**10.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the procedure to be followed in the appointment of civil servants;
- (b) prescribing the maximum period for which an appointment may be made under section 7;
- (c) designating the appointees or classes of appointees who shall not be civil servants;
- (d) prescribing the method of classifying, re-classifying and promoting civil servants and of increasing the remuneration of civil servants and of transferring civil servants from one department to another;
- (e) prescribing a schedule of classifications for civil servants, including qualifications, duties and salaries;
- (f) providing for the time and manner of payment of the salaries of civil servants;
- (g) prescribing the hours of service for civil servants;
- (h) providing for a system of credits for the regular attendance of civil servants and for the payment to a person who has ceased to be a civil servant, or to his personal representative, of an amount equal to the value or a portion of the value of his credit;
- (i) providing for the granting of leave of absence to civil servants;
- (j) for regulating the conduct of civil servants, including the imposing of penalties by fine, suspension, demotion or otherwise;

- (k) providing for the establishment of advisory, joint or departmental councils or committees and prescribing the powers and duties thereof;
- (l) prescribing procedures to be followed for hearing and dealing with grievances of such classes of persons in the public service as are designated,
  - (i) providing for the establishment of a grievance board to hear and deal with such grievances as are prescribed, and
  - (ii) prescribing the powers of the board including the power to call, swear and compel the attendance of witnesses;
- (m) authorizing the Commission to hear and deal with such grievances as are prescribed of classes of persons designated under clause l and prescribing the powers of the Commission for the purpose;
- (n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 317, s. 9; 1958, c. 89, s. 2; 1960, c. 97, s. 2, *amended*.

**11.** The cost of administration of this Act is payable out of the moneys that are appropriated therefor by the Legislature. R.S.O. 1950, c. 317, s. 10. Cost of  
administra-  
tion

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## CHAPTER 332

**The Public Service Superannuation Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Public Service Superannuation Board;
- (b) "child" includes adopted child and step-child;
- (c) "civil servant" has the same meaning as in *The Public Service Act*; R.S.O. 1960, c. 331
- (d) "contributor" in Part I means a civil servant who is appointed by the Lieutenant Governor in Council under *The Public Service Act* and a person in a class of persons to whom that Part is made applicable, and in Part II means a civil servant who is appointed for a period of one year;
- (e) "Crown" means the Crown in right of Ontario;
- (f) "Fund" in Part I means the Public Service Superannuation Fund, and in Part II means the Public Service Retirement Fund;
- (g) "Minister" means the member of the Executive Council who is designated by the Lieutenant Governor in Council as the Minister to whom the Board is responsible for the administration of this Act;
- (h) "Treasurer" means the Treasurer of Ontario. 1960, c. 98, s. 1.

**2.—(1)** The board known as the Public Service Superannuation Board is continued and shall consist of four Board, continued members.

(2) The chairman of the Civil Service Commission is *ex officio* Composition a member of the Board and the other three members shall be appointed by the Lieutenant Governor in Council, one of whom shall be the representative of the Civil Service Association of Ontario.

(3) The Lieutenant Governor in Council may designate Chairman one of the members of the Board as chairman. 1960, c. 98, s. 2.

**3.** The Board is responsible to the Minister for the administration of this Act. 1960, c. 98, s. 3. Administration of Act

## PART I

## SUPERANNUATION FUND

Fund  
continued

4.—(1) The fund known as the Public Service Superannuation Fund and the account in the books of the Treasurer known as the Public Service Superannuation Fund Account are continued.

Composition  
of Fund

(2) The Fund consists of the moneys paid in by contributors and the moneys credited to the Fund out of the Consolidated Revenue Fund or otherwise in accordance with law, less the moneys paid out under this Part.

Records

(3) The Treasurer shall keep records showing a separate account for each contributor to the Fund.

Interest

(4) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at the rate of 5 per cent per annum compounded annually, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the commencement of the fiscal year.

Deficiency

(5) If at any time the amount at the credit of the Fund is insufficient to meet the payments out of the Fund, the deficiency shall be made up out of the Consolidated Revenue Fund. 1960, c. 98, s. 4.

Contributions,  
current

5. There shall be deducted from the salary of every contributor an amount equal to 6 per cent of his salary and the amount so deducted shall be placed to his credit in the Fund. 1960, c. 98, s. 5.

Contributions in  
respect of  
past service

6.—(1) Every person,

- (a) who becomes a contributor after the commencement of this Act; and
- (b) who was continuously in the service of the Crown up to the time he became a contributor; and
- (c) who gives notice in writing to the Board within six months after he becomes a contributor of his intention to establish credit in the Fund in respect of his past continuous non-contributory service with the Crown; and
- (d) who pays, or agrees to pay by way of salary deductions, an amount equal to the amount that he would have paid if he had contributed to the Fund from the time he commenced his continuous non-contributory service with the Crown, together with interest

at the rate of 3 per cent per annum upon such amount,

is, in reckoning the amount of any allowance or annuity payable to him, entitled to credit in the Fund for the period of service represented by the payments so made.

(2) Any contributor who is entitled under subsection 1 to establish credit in the Fund in respect of his past continuous non-contributory service with the Crown may establish such credit in respect of a part only of such service, in which case the relevant provisions of this section apply *mutatis mutandis*, but no interval of time shall intervene between such part and the period in respect of which he contributes under section 5. <sup>Idem, part of past service</sup>

(3) For the purposes of this section, the Board may determine the day on which any contributor commenced his continuous non-contributory service with the Crown. 1960, c. 98, s. 6. <sup>Commencement of continuous service</sup>

7.—(1) A contributor who is granted leave of absence without salary shall within six months of the termination of the leave contribute to the Fund an amount equivalent to the amount he would have contributed if he had not been granted the leave and, where the leave, <sup>Leave of absence, contributions</sup>

(a) exceeds one month; and

(b) is granted for a reason other than illness or pregnancy,

he shall within the same period of time contribute to the Fund an additional equivalent amount which shall be in lieu of the credits provided for in section 8.

(2) Where a contributor is granted leave of absence without salary for educational purposes, he may make the contributions mentioned in subsection 1, in which case the contributions shall be made within a period of time that is equivalent to or less than the period of the leave, or he may elect not to make such contributions, in which case he is not entitled to credit for the period of the leave. 1960, c. 98, s. 7. <sup>Idem</sup>

8.—(1) Except as otherwise provided, where a contribution is credited to the Fund, an equivalent amount shall be credited to the Fund out of the Consolidated Revenue Fund. <sup>Government's contribution</sup>

(2) Where contributors are engaged in a branch of the civil service that has a special fund and the branch is designated for the purpose of this subsection by the Lieutenant Governor in Council, amounts equivalent to the contributions to the Fund of such contributors shall be credited or paid to the <sup>Designated branches</sup>

Fund out of the special fund of the branch in lieu of the credits to the Fund provided for in subsection 1.

Boards and  
commissions

(3) Where the Lieutenant Governor in Council designates a board or commission under section 27, amounts equivalent to the contributions to the Fund of contributors who are members of the permanent staff of the board or commission shall be paid into the Fund by the board or commission in lieu of the credits to the Fund provided for in subsection 1. 1960, c. 98, s. 8.

Super-  
annuation  
allowance,  
at 65

**9.—(1)** Every contributor who,

- (a) has attained the age of sixty-five years; and
- (b) has contributed to the Fund in respect of a period of fifteen or more years,

is entitled to a superannuation allowance upon his retirement.

at 70

(2) Notwithstanding subsection 1, every contributor who was more than fifty years of age on the 1st day of March, 1948, and who,

- (a) has attained the age of seventy years; and
- (b) has contributed to the Fund in respect of a period of fifteen or more years,

is entitled to a superannuation allowance upon his retirement.

at 60

(3) Every contributor who,

- (a) has attained the age of sixty years; and
- (b) has contributed to the Fund in respect of a period of twenty-five or more years,

is entitled to a superannuation allowance upon his retirement. 1960, c. 98, s. 9.

Disability  
allowance

**10.—(1)** Every contributor who,

- (a) became a contributor at an age at which he could contribute to the Fund in respect of a period of fifteen years before attaining retirement age; and
- (b) has contributed to the Fund in respect of a period of ten or more years; and
- (c) is found by the Board to be unable to perform his duties by reason of mental or physical incapacity; and

(d) is retired by the Lieutenant Governor in Council, is entitled to a disability allowance.



(2) The Board may at any time review the case of any person receiving a disability allowance and, if, in the opinion of the Board, the person has recovered sufficiently to perform his former or other duties, the Board shall report the case to the Lieutenant Governor in Council who may direct that he be considered for re-employment. <sup>Review</sup>

(3) Where a person is offered re-employment under this section, his disability allowance ceases whether or not he accepts the offer. <sup>Re-employment</sup>

(4) Where a person does not accept the offer and the total amount of the allowance paid to him is less than the total amount of his contributions with interest at 3 per cent per annum, the amount of the difference shall be paid to him in monthly instalments or otherwise as he directs. 1960, c. 98, s. 10. <sup>Where offer not accepted</sup>

**11.—**(1) The amount of every annual superannuation and disability allowance shall be computed by dividing by 50 the amount of the average annual salary of the contributor during the three consecutive years of his service during which his salary was highest and multiplying the quotient by the total number of full years and any part of a year of continuous service where the contributor has contributed to the Fund in respect of such period, but not more than thirty-five years of service shall be reckoned. <sup>Computation of allowances</sup>

(2) In no case shall the amount of an annual superannuation allowance be, <sup>Maximum and minimum superannuation allowance</sup>

(a) more than \$3,000 where any period of non-contributory service is included in the computation; or

(b) less than \$600, except where \$600 is greater than 70 per cent of the contributor's average annual salary during the last three years of his service.

(3) In no case shall the amount of an annual disability allowance be, <sup>Maximum and minimum disability allowance</sup>

(a) more than \$3,000 where any period of non-contributory service is included in the computation; or

(b) less than \$600, except that, where the contributor receives another disability allowance, grant, award or pension and his disability allowance under this Part is less than \$600, the amount of his disability allowance under this Part shall be such that he will receive a total of not less than \$600 from both sources.

Computation  
of part  
of year

(4) Where a computation under subsection 1 involves part of a year, the computation shall be made on a monthly basis, and,

(a) any part of a month less than fifteen days shall be disregarded; and

(b) any part of a month not less than fifteen days shall be deemed to be a month. 1960, c. 98, s. 11.

Deferred  
annuities

**12.**—(1) Every contributor who has contributed continuously to the Fund in respect of ten or more years and who ceases to be employed before he is sixty-five years of age and who is not entitled to an allowance under this Part is entitled to a deferred annuity.

Immediate  
annuities

(2) Every contributor who has contributed continuously to the Fund in respect of ten or more years and who ceases to be employed after he is sixty years of age and who is not entitled to an allowance under this Part is entitled to an immediate annuity.

Idem

(3) Every contributor who has contributed continuously to the Fund in respect of ten or more years and who ceases to be employed after he is fifty years of age and before he is sixty years of age is, with the approval of the Lieutenant Governor in Council, entitled to an immediate annuity.

Idem

(4) Every former contributor who has a deferred annuity is, with the approval of the Lieutenant Governor in Council, entitled to an immediate annuity.

Idem

(5) This section does not apply to any person who was more than fifty years of age when his continuous service commenced. 1960, c. 98, s. 12.

Computation  
of deferred  
annuity

**13.**—(1) The amount of every deferred annuity shall be computed by dividing by 50 the amount of the average annual salary of the contributor during the three consecutive years of his service during which his salary was highest and multiplying the quotient by the total number of full years and any part of a year of continuous service where the contributor has contributed to the Fund in respect of such period, but not more than thirty-five years of service shall be reckoned.

Idem

(2) An annuity computed under subsection 1 shall be reduced by 1 per cent for each whole year by which the number of years of service is less than twenty years.

Computation  
of immediate  
annuity

(3) The amount of every immediate annuity shall be computed in the same manner as provided in subsections 1 and 2 except that the amount so determined shall be adjusted in accordance with the following table:

Age	Divisor
60 .....	50
59 .....	54
58 .....	58
57 .....	62
56 .....	67
55 .....	72
54 .....	77
53 .....	82
52 .....	88
51 .....	94
50 .....	100

(4) Where a computation under subsection 1 involves part <sup>Computation of part of year</sup> of a year, the computation shall be made on a monthly basis, and,

- (a) any part of a month less than fifteen days shall be disregarded; and
- (b) any part of a month not less than fifteen days shall be deemed to be a month. 1960, c. 98, s. 13.

**14.** Section 20 applies *mutatis mutandis* to the widow or <sup>Widows and children of annuitants</sup> child or children of an annuitant under section 12, except that the amount of the allowance shall be equal to one-half the value of the annuity. 1960, c. 98, s. 14.

**15.** Except as provided in section 14, where an annuitant <sup>Death of annuitant</sup> dies, an amount equal to the amount of his contributions to the Fund with interest at 3 per cent per annum, less the amount of the annuity paid to him, shall be paid to his personal representative. 1960, c. 98, s. 15.

**16.** Except as provided in *The Public Service Act*, where a <sup>Re-employment of super-annuate</sup> person in receipt of a superannuation allowance is re-employed, payment thereof shall be suspended during the period of re-<sup>R.S.O. 1960 c. 331</sup> employment, but any period of re-employment during which such person is under the age of sixty-five years shall be added to the period of his prior employment and the allowance payable upon termination of his re-employment shall be recalculated accordingly. 1960, c. 98, s. 16.

**17.—(1)** Where a contributor who has contributed to the <sup>Refunds</sup> Fund in respect of a period of less than three years resigns, or is dismissed, or dies leaving no widow and no child or children, an amount equal to the total of his contributions shall be paid to him in monthly instalments or otherwise as he directs or to his personal representative, as the case may be.

Idem

(2) Where a contributor who has contributed to the Fund in respect of a period of three or more years resigns or is dismissed and is not entitled to or granted any allowance, or dies leaving no widow and no child or children, an amount equal to the total of his contributions with interest at 3 per cent per annum shall be paid to him in monthly instalments or otherwise as he directs or to his personal representative, as the case may be. 1960, c. 98, s. 17.

Retirement  
or death  
before  
super-  
annuation

**18.** Where a contributor who,

- (a) has attained retiring age is retired by the Lieutenant Governor in Council in circumstances under which he is not entitled to a superannuation allowance or annuity; or
- (b) is found by the Board to be unable to perform his duties by reason of mental or physical incapacity is retired by the Lieutenant Governor in Council in circumstances under which he is not entitled to a disability allowance or annuity; or
- (c) has contributed to the Fund in respect of a period of less than ten years dies leaving a widow or a child or children under the age of eighteen years,

twice the amount of his contributions to the Fund with interest at 3 per cent per annum shall be paid to him in monthly instalments or otherwise as he directs or to his widow or child or children, as the case may be. 1960, c. 98, s. 18.

Death of  
person in  
receipt of  
allowance

**19.** Except as provided in section 20, where a person who is in receipt of an allowance dies, an amount equal to the amount of his contributions, with interest at 3 per cent per annum, less the amount of the allowance paid to him, shall be paid to his personal representative. 1960, c. 98, s. 19.

Allowance  
to widows,  
etc.

**20.—(1)** Where a contributor who has contributed to the Fund in respect of a period of ten or more years, or a person to whom an allowance is being paid,

- (a) dies leaving a widow, an amount equal to,
  - (i) one-half of the allowance computed in the manner provided in section 11 but based on the deceased's employment to the time of his death, or
  - (ii) one-half of the allowance that the deceased was receiving at the date of his death,

as the case may be, shall be paid to his widow during her life or during her widowhood and, where the widow dies or marries leaving a child or children who at the date of her death or marriage is or are under the age of eighteen years, an amount equal to that paid to the widow shall be paid to the child or children until such age is attained; or

- (b) dies leaving no widow but leaving a child or children under the age of eighteen years, an amount equal to,
  - (i) one-half of the allowance computed in the manner provided in section 11 but based on the deceased's employment to the time of his death, or
  - (ii) one-half of the allowance that the deceased was receiving at the date of his death,

as the case may be, shall be paid to the child or children until such age is attained.

(2) Where the payments made under subsection 1 or the amount of the allowance and any payments made under subsection 1, as the case may be, are less than the amount of the contributions of the deceased with interest at 3 per cent per annum, the amount of the difference shall be paid to his personal representative. Where payments less than contributions

(3) Subsection 1 does not apply to the widow of a contributor or of a person to whom an allowance was being paid, if she married him after he attained the age of sixty years or after the date of his retirement or to the child or children of such marriage, but an amount equal to twice the amount of his contributions with interest at 3 per cent per annum, less the total amount of the allowance paid to him, if any, shall be paid to his widow or child or children, as the case may be. Late marriages

(4) Where the contributor or the person to whom an allowance was being paid was a widow, subsection 1 applies *mutatis mutandis* to her child or children. 1960, c. 98, s. 20. Where deceased is a widow

**21.** Allowances and annuities shall be paid in monthly instalments. 1960, c. 98, s. 21. Payment monthly

**22.—(1)** This Part applies to,

- (a) every sheriff; and
- (b) every person or class of persons connected with the administration of justice who or that are designated by the Lieutenant Governor in Council,

Sheriffs,  
persons  
engaged in  
administra-  
tion of  
justice

whether paid by fees or salary or partly by fees and partly by salary.

Computa-  
tion of  
contri-  
butions

R.S.O. 1960,  
c. 327

(2) Where a person or class of persons designated under subsection 1 is paid by fees or partly by fees, the contributions payable under this Part in respect of fees shall be computed upon the net income, within the meaning of *The Public Officers' Fees Act*, payable for the preceding year in respect of the office occupied by him and his allowance or annuity shall be computed accordingly. 1960, c. 98, s. 22.

Registrars  
of deeds

**23.**—(1) This Part applies to every registrar of deeds whether paid by fees or by salary and to the permanent staffs of their offices.

Computa-  
tion of  
contribu-  
tions and  
allowances  
R.S.O. 1960,  
c. 348

(2) Where a registrar of deeds is paid by fees, his contributions payable under this Part shall be computed upon the net income within the meaning of *The Registry Act* for the preceding year in respect of the office occupied by him, and his allowance or annuity shall be computed accordingly.

Idem

(3) Where a registrar's income is supplemented under section 110 of *The Registry Act*, the amount of such supplement shall not be included in arriving at his net income for the purpose of computing the amount of his contributions payable under this Part.

Contribu-  
tions to be  
paid  
monthly

(4) Every registrar of deeds shall pay monthly to the Fund from the fees of his office an amount equal to the contributions in respect of present services that is due to the Fund by himself and by the members of the permanent staff of his office, and, where such fees are insufficient to pay such contributions, the balance shall be paid to the Fund from the Consolidated Revenue Fund.

Past  
services

(5) Where a registrar of deeds or any of the members of the permanent staff of his office make payments to the Fund in respect of services performed by them before the 1st day of July, 1953, the registrar shall pay to the Fund from the fees of his office an amount equal to such payments, and, if such fees are insufficient to pay the whole of such amount, the balance shall be paid to the Fund from the Consolidated Revenue Fund, and thereupon the registrar and each of such members respectively are entitled to credit in the Fund for such period of past service as is fixed by the Board. 1960, c. 98, s. 23.

Magistrates

**24.** This Part applies to every full-time magistrate. 1960, c. 98, s. 24.

**25.—**(1) This Part applies to every jailer and jail employee, other than a jail surgeon, who is employed full time on the permanent staff of a county or city jail, in respect of his service after the 30th day of June, 1948, except that the county or city, as the case may be, shall contribute to the Fund an amount equal to the contribution of the jailer or jail employee in lieu of the contribution out of the Consolidated Revenue Fund provided for in section 8, and shall also pay into the Fund the contribution deducted from the salary of the jailer or jail employee.

(2) The Board and the council of a county or city that has established a jail may, with the approval of the Lieutenant Governor in Council, enter into an agreement under which the jailer and jail employees and the municipality may pay into the Fund in respect of the service of such persons before the 1st day of July, 1948, and, where such an agreement is entered into and such payments are made, the jailer and jail employees are entitled to credit for the period of service represented by the payments made in reckoning the amount of allowances or annuities payable to them. 1960, c. 98, s. 25.

**26.—**(1) Every person who had been a contributor to the Teachers' Superannuation Fund and who was a contributor to the Public Service Superannuation Fund on the 1st day of July, 1953, and whose contributions and credits in the Teachers' Superannuation Fund have been transferred to the Public Service Superannuation Fund shall receive service credit to the extent of 70 per cent of his service credit in the Teachers' Superannuation Fund, but in no case shall the number of years of service credit so obtained exceed twenty years.

(2) Where a person who was a contributor to the Teachers' Superannuation Fund becomes a contributor to the Public Service Superannuation Fund after the 1st day of July, 1953, an amount equal to his contributions and credits in the Teachers' Superannuation Fund with accumulated interest shall be transferred to the Public Service Superannuation Fund and thereupon he shall receive service credit to the extent of 70 per cent of his service credit in the Teachers' Superannuation Fund, but in no case shall the number of years of service credit so obtained exceed twenty years.

(3) Where a former contributor who is not in receipt of an allowance or annuity is employed within the meaning of *The Teachers' Superannuation Act*, his contributions and credits in the Fund, together with interest at the rate of  $4\frac{3}{4}$  per cent per annum, shall be transferred to the Teachers' Superannuation Fund. 1960, c. 98, s. 26.

Boards,  
commissions

**27.** This Part applies to the permanent staff of any board or commission established under any Act of the Legislature that is designated by the Lieutenant Governor in Council. 1960, c. 98, s. 27.

Arrange-  
ment for  
payment,  
out of Fund  
into another  
superannua-  
tion fund

**28.**—(1) Where a contributor becomes a member of the civil service of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature, a sum of money equal to his contributions and credits in the Fund or such portion thereof as the Board, subject to the approval of the Lieutenant Governor in Council, determines, with interest at such rate as the Board, subject to the approval of the Lieutenant Governor in Council, determines, shall be paid out of the Fund into any like fund maintained to provide superannuation benefits for the members of such civil or civic service or staff, as the case may be.

into Fund  
out of  
another  
superannua-  
tion fund

(2) Where a member of the civil service of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature becomes a contributor and a sum of money is paid into the Fund in respect of the period during which he was a civil or civic servant or on the staff of the board, commission or public institution, the Board, subject to the approval of the Lieutenant Governor in Council, may allow him such credit in the Fund in respect of the sum and the period of service represented thereby as is determined. 1960, c. 98, s. 28.

## PART II

### RETIREMENT FUND

Retirement  
Fund and  
Retirement  
Fund  
Account  
continued

**29.**—(1) The fund known as the Public Service Retirement Fund and the account in the books of the Treasurer known as the Public Service Retirement Fund Account are continued.

Composition

(2) The Fund consists of the moneys paid in by contributors under this Part and the amounts credited to it under subsection 4, less the moneys paid out under this Part.

Records

(3) The Treasurer shall keep records showing a separate account for each contributor to the Fund.

Interest

(4) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at the rate of 3 per cent per annum compounded annually, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the commencement of the fiscal year. 1960, c. 98, s. 29.



**30.**—(1) This Part does not apply to any person who was appointed before the 1st day of July, 1952, unless he so elects <sup>Where Part does not apply</sup> in a writing delivered or sent to the Board.

(2) This Part does not apply to any person who is a contributor to the Teachers' Superannuation Fund unless he so elects in a writing delivered or sent to the Board, and, if he so elects and in due course becomes a contributor within the meaning of Part I, his contributions to the Teachers' Superannuation Fund shall, for the purposes of Part I, be deemed to have ceased on the date on which his election to come under this Part becomes effective. 1960, c. 98, s. 30. <sup>Idem</sup>

**31.** There shall be deducted from the salary of every contributor an amount equal to 6 per cent of his salary and the amount so deducted shall be placed to his credit in the Fund. 1960, c. 98, s. 31. <sup>Contributions</sup>

**32.** Where a contributor under this Part becomes a contributor under Part I, the amount to his credit in the Public Service Retirement Fund shall be transferred to his credit in the Public Service Superannuation Fund and he is entitled to credit in the latter fund for a period equal to the period in respect of which he contributed to the former fund. 1960, c. 98, s. 32. <sup>Transfer to Public Service Superannuation Fund</sup>

**33.**—(1) Where a contributor who has contributed to the Fund in respect of three years or less ceases to be a contributor or dies, the amount to his credit in the Fund shall be paid to him or to his personal representative, as the case may be. <sup>Refunds</sup>

(2) Where a contributor who has contributed to the Fund in respect of more than three years ceases to be a contributor or dies, the amount to his credit in the Fund with interest at 3 per cent per annum shall be paid to him or to his personal representative, as the case may be. 1960, c. 98, s. 33. <sup>Idem</sup>

### PART III

#### GENERAL

**34.** The Treasurer is custodian of the Public Service Superannuation Fund and the Public Service Retirement Fund. 1960, c. 98, s. 34. <sup>Custodian of Funds</sup>

**35.** The Public Service Superannuation Fund and the Public Service Retirement Fund shall be audited by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council appoints, and the auditor shall make an <sup>Audit</sup>

annual report in respect of the preceding fiscal year to the Lieutenant Governor in Council and the report shall be laid before the Assembly if it is in session or, if not, at the next ensuing session. 1960, c. 98, s. 35.

Payments  
out

**36.** Every payment out of the Public Service Superannuation Fund or the Public Service Retirement Fund shall be made by cheque of the Treasurer issued upon the requisition of the Board. 1960, c. 98, s. 36.

No attach-  
ment, etc.

**37.** The interest of any person in the Public Service Superannuation Fund or the Public Service Retirement Fund or in any allowance, annuity, refund or other sum payable out of either fund is not subject to garnishment, attachment, seizure or other process of law and is not assignable. 1960, c. 98, s. 37.

Where  
person  
indebted  
to Crown

**38.** Where a person who leaves the service of the Crown is indebted to the Crown, the amount of such indebtedness shall be deducted from any payment to which he or his personal representative is entitled under this Act. 1960, c. 98, s. 38.

Where no  
personal  
representative

**39.** Where a person dies in circumstances under which a refund under this Act is payable to his personal representative but there is no personal representative, the refund may be paid to such person as the Board determines. 1960, c. 98, s. 39.

Annual  
report

**40.—(1)** The Board shall make a report annually to the Minister containing such information as the Minister requires.

Idem

**(2)** A copy of the report shall be filed with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1960, c. 98, s. 40.

Cost of  
administra-  
tion

**41.** The cost of administration of this Act is payable out of the moneys that are appropriated therefor by the Legislature. 1960, c. 98, s. 41.

Regulations

**42.** The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

- (a) prescribing the proofs to be furnished as a condition to the payment of an allowance or an annuity;
- (b) prescribing the times at which and the manner in which contributions to the Public Service Superannuation Fund shall be made by any class of contributors with respect to which special circumstances exist;

- (c) determining the maximum number of years of contribution to the Public Service Superannuation Fund, the maximum amount of contribution to that Fund or the maximum salary on which contributions to that Fund shall be reckoned;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 98, s. 42.

**43.** Nothing in this Act,

Existing  
benefits

- (a) increases or decreases the amount of any allowance or annuity that was being paid under the predecessor of this Act immediately before the 1st day of April, 1960; or
  - (b) affects any right to any benefit created under any predecessor of this Act and, where there is any such right, the provisions of this Act apply *mutatis mutandis* thereto. 1960, c. 98, s. 43.
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## CHAPTER 333

**The Public Service Works on Highways Act****1. In this Act,**Interpre-  
tation

- (a) "appliances and works" means poles, wires, conduits, transformers, pipes, pipe lines or any other works, structures or appliances placed on or under a highway by an operating corporation;
- (b) "operating corporation" means a municipal corporation or commission or a company or individual operating or using a telephone or telegraph service, or transmitting, distributing or supplying electricity or artificial or natural gas for light, heat or power and includes The Hydro-Electric Power Commission of Ontario;
- (c) "road authority" means the Department of Highways, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor. R.S.O. 1950, c. 318, s. 1.

**2.** Subject to section 3, where in the course of constructing, reconstructing, changing, altering or improving any highway it becomes necessary to take up, remove or change the location of appliances and works placed on or under the highway by an operating corporation, the road authority and the operating corporation may agree upon the apportionment of the cost of labour employed in the work, and in default of agreement the cost of the work shall be apportioned equally between the road authority and the operating corporation, but such costs shall not include the replacement or renewal of the appliances or works nor the cost of any materials or supplies, nor any other expense or loss occasioned to the operating corporation. R.S.O. 1950, c. 318, s. 2.

Cost of  
removal, etc.,  
of appliances  
and works  
on alteration  
of highway

**3.** Where it is made to appear to the Ontario Municipal Board, upon application made to it, that the circumstances and conditions under which any of the appliances and works mentioned in section 2 have been placed on or under a highway, or that other special conditions render it unfair or unjust that the cost of taking up, removing or changing the location

Apportion-  
ment of cost  
by Municipal  
Board

of the works should be apportioned and paid as provided in section 2, the Board, upon the application of the road authority or operating corporation, may apportion the cost of the taking up, removing or changing the works in such manner as appears to it to be equitable, and the decision of the Board is final and is not subject to appeal. R.S.O. 1950, c. 318, s. 3.

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## CHAPTER 334

## The Public Trustee Act

**1.**—(1) The Lieutenant Governor in Council may appoint <sup>Qualification and staff</sup> a member of the Bar of Ontario of not less than five years standing to be the Public Trustee, and may appoint such persons as officers, clerks and servants in the office of the Public Trustee as are necessary for the purposes of this Act. R.S.O. 1950, c. 319, s. 2.

(2) The Public Trustee is a corporation sole under that name with perpetual succession and an official seal, who may <sup>Office of Public Trustee</sup> sue and be sued in his corporate name. R.S.O. 1950, c. 319, s. 1.

**2.**—(1) The Lieutenant Governor in Council may appoint <sup>Deputy or deputies</sup> one or two persons to act as the deputy or the deputies, as the case may be, of the Public Trustee during his absence or illness, and while so acting each such deputy has all the powers and may perform any of the duties of the Public Trustee.

(2) In the case of the death of the Public Trustee, the <sup>Acting Public Trustee</sup> deputy who in point of time is senior in appointment to office shall act as Public Trustee until the Public Trustee is appointed. 1958, c. 90, s. 1.

**3.** In the case of the illness or absence of the Public Trustee or if the office becomes vacant and no deputy has been appointed, the Attorney General is <sup>When Attorney General to act</sup> *ex officio* Public Trustee until another appointment is made. R.S.O. 1950, c. 319, s. 3 (4).

**4.** The salaries or other remuneration of the Public Trustee <sup>Salaries</sup> and of the officers, clerks and servants in his office shall be fixed by the Lieutenant Governor in Council and may be paid out of the moneys that are appropriated by the Legislature for that purpose or out of any fund established under this Act, as the Lieutenant Governor in Council from time to time directs. R.S.O. 1950, c. 319, s. 4.

**5.** The Public Trustee shall discharge the duties imposed <sup>Duties</sup> upon him by *The Crown Administration of Estates Act*, *The Charities Accounting Act* and any other Act of the Legislature or by the Lieutenant Governor in Council, and he shall also make inquiries from time to time as to property that has <sup>R.S.O. 1960, cc. 80, 52</sup>

escheated, or become forfeited for any cause to the Crown, or in which the Crown in right of Ontario may be interested, and every person when required by the Public Trustee shall furnish him with such information as he requires, and in default of so doing is guilty of an offence and on summary conviction is liable to a fine of not more than \$100, which fine shall be paid over to the Public Trustee. R.S.O. 1950, c. 319, s. 5, *amended*.

Powers in  
conducting  
inquiry

R.S.O. 1960,  
c. 323

**6.** For the purposes of an inquiry under section 5 the Public Trustee has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 319, s. 6.

Acceptance  
and execu-  
tion of  
trusts

**7.—(1)** The Public Trustee, with his consent in writing, may be appointed trustee of any will or settlement or other instrument creating a trust or duty in the same manner as if he were a private trustee.

May be  
appointed  
sole trustee

**(2)** The Public Trustee may be appointed sole trustee although the trust instrument contemplates two or more trustees, and any person who is a trustee with the Public Trustee may at any time retire from the trust upon passing his accounts and paying over the balance. R.S.O. 1950, c. 319, s. 7.

Fees and  
charges

**8.—(1)** The Public Trustee shall make the charges prescribed by the regulations for his services against every estate that comes to his hand to be dealt with.

To be  
allowed  
same fees  
as private  
trustee

**(2)** All fees, charges, and expenses that would be allowed to a private trustee shall be allowed to the Public Trustee and shall be collected and accounted for in the manner prescribed by the regulations.

Services of  
staff may be  
charged for

**(3)** Notwithstanding this or any other Act, the Public Trustee may in connection with any estate or trust administered or managed by him make a reasonable charge for any service performed by a member of the staff of his office where the service is one for which a charge would be allowed as a disbursement against the estate or trust if performed by a person retained, engaged or employed to perform such service by a private trustee, and every such charge shall for the purpose of such estate or trust be deemed to be a disbursement. R.S.O. 1950, c. 319, s. 8.

Administra-  
tion  
fund

**9.—(1)** The fees, charges, and remuneration and refunds of all expenses and all income of the office of every description shall be paid by the Public Trustee into a separate account as prescribed by the regulations.



(2) There shall be paid out of such account the salaries or other remuneration, and the expenses of the Public Trustee and the officers, clerks and servants in his office. Payments out of account

(3) From any surplus in such account there may be established an assurance fund as provided by the regulations. Assurance fund

(4) Notwithstanding *The Crown Administration of Estates Act*, the Lieutenant Governor in Council may direct that moneys coming to the hand of the Public Trustee under that Act shall be placed to the credit of such account and applied to the purposes of subsection 2. Moneys received under R.S.O. 1960, c. 80

(5) The Lieutenant Governor in Council may from time to time direct the payment into the Consolidated Revenue Fund of any balance at the credit of such account. Payment over of balances

(6) Payments into and out of such account shall be made in such manner and subject to such conditions as are prescribed in the regulations. R.S.O. 1950, c. 319, s. 9. Manner of paying into and out of account

**10.—**(1) Where the Public Trustee acting in any capacity has in his hands property not exceeding \$2,000 in value of a person who has died and to which his personal representative is entitled, the production to the Public Trustee of, Delivery up of property \$2,000 or less in value

- (a) an authenticated copy of the probate of the will of the deceased, or of letters of administration of his estate, or of letters of verification of heirship, or of the act of curatorship or tutorship, granted by any court in Canada having power to grant the same, or by any court or authority in a country of the Commonwealth or any colony, dependency or protectorate of any such country, or of any testament-testamentary or testament-dative expedite in Scotland;
- (b) an authentic copy of the will of the deceased, if it is in notarial form according to the law of the Province of Quebec; or
- (c) if the deceased died elsewhere than in a place mentioned in clause *a*, any authenticated copy of the probate of his will, or of letters of administration of his property, or other document of like import, granted by any court or authority having the requisite power in such matters,

is sufficient justification and authority for the delivering of such property in pursuance of and in conformity with such probate, letters of administration, or other document.

(2) When the authenticated copy or other document of like import is produced to the Public Trustee under sub- Deposit of copy of document

section 1, there shall be deposited with him a true copy thereof. 1960, c. 99, s. 1.

Losses,  
how to be  
made good

**11.** All sums required to discharge any liability for a loss that the Public Trustee, if he were a private trustee, would be personally liable to discharge, shall be made good out of the assurance fund or out of the Consolidated Revenue Fund, but neither the Public Trustee nor any of his officers nor the assurance fund is liable for any loss that would not have imposed liability upon a private trustee. R.S.O. 1950, c. 319, s. 10.

Charitable  
and public  
trusts

**12.** The Public Trustee may accept and administer any charitable or public trust. R.S.O. 1950, c. 319, s. 11.

Investment  
of money

**13.** Any money held by the Public Trustee that is available for investment shall be invested in securities issued by or guaranteed as to principal and interest by Ontario or Canada or by any agency of either. 1960, c. 99, s. 2.

Regulations

**14.** The Lieutenant Governor in Council may make regulations,

- (a) respecting the office of Public Trustee, imposing duties on the Public Trustee in addition to those imposed by this Act, and prescribing the trusts or duties he is authorized to accept or undertake under this Act, and the security, if any, to be given by the Public Trustee and his officers;
- (b) for fixing the fees and charges in the office of the Public Trustee and the application and disposal of the same;
- (c) respecting the transfer to and from the Public Trustee of any property;
- (d) respecting the accounts to be kept and the auditing thereof;
- (e) for the establishment of an assurance fund for the purpose of meeting any losses for which the office of Public Trustee may be liable;
- (f) fixing the rate of interest to be allowed upon money in the hands of the Public Trustee and fixing the amount of interest to be charged upon advances made on behalf of any estate and the custody and control of securities held by him for investments;
- (g) for constituting an advisory committee for the supervision of the investments or other dealings with

property by the Public Trustee, and for providing for the remuneration by fees, or otherwise, of the members of the committee;

- (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 319, s. 12; 1960, c. 99, s. 3.

**15.**—(1) The members of the advisory committee of the Public Trustee are visitors of the office of the Public Trustee. Advisory committee

(2) The committee may make such suggestions and recommendations with regard to the general policy respecting the management and conduct of the office of Public Trustee as is deemed advisable. Suggestions

(3) The Public Trustee may consult with the committee from time to time as to methods of administration, staff and other matters relating to the office. Consultations

(4) The committee shall make an annual report to the Lieutenant Governor in Council respecting the performance of their duties and the exercise of their powers under this section. Annual report  
R.S.O. 1950, c. 319, s. 13.

**16.** Notwithstanding any rule or practice or any Act requiring security, it is not necessary for the Public Trustee to give any security for the due performance of his duty as executor, administrator, trustee, committee, or in any other office to which he may be appointed by order of the court or under any statute. R.S.O. 1950, c. 319, s. 14. Security by Public Trustee not necessary

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## CHAPTER 335

## The Public Utilities Act

**1.** In Parts III, IV, V and VI, “public utility” means <sup>Interpretation</sup> water, artificial or natural gas, electrical power or energy, steam or hot water. R.S.O. 1950, c. 320, s. 1.

## PART I

## MUNICIPAL WATERWORKS

**2.—**(1) The corporation of a local municipality may, under and subject to the provisions of this Part, acquire, establish, maintain and operate waterworks, and may acquire by purchase or otherwise and may enter on and expropriate land, waters and water privileges and the right to divert any lake, river, pond, spring or stream of water, within or without the municipality, as may be deemed necessary for waterworks purposes, or for protecting the waterworks or preserving the purity of the water supply.

(2) No land, water or water privilege that is not situate within or within 15 miles of the municipality shall be expropriated under the powers conferred by subsection 1, and no water shall be taken from any lake or river except within or within 15 miles of the municipality, or in either case so as to interfere with the waterworks of any other municipal corporation or the supply of water therefor then in actual use.

(3) The corporation may purchase the waterworks of any person situate within or in the neighbourhood of the municipality and may improve and extend them, and, for the purpose of any improvement or extension, may exercise all the powers conferred by this Part.

(4) The council of the corporation may define an area in the municipality and may assess and levy on the rateable property in the area the cost of the waterworks including debenture charges, the cost of maintenance and management and the cost of the water, or any part thereof. R.S.O. 1950, c. 320, s. 2.

**3.** Parts XV and XVI of *The Municipal Act* apply to the exercise by the corporation of any of the powers conferred by this Part. R.S.O. 1950, c. 320, s. 3; 1958, c. 91, s. 1.

Construction of  
necessary  
works

4.—(1) The corporation may construct and maintain, in and upon the land acquired by it, such reservoirs, water and other works, plant and machinery as may be requisite for the undertaking, and may, by pipes or otherwise, convey the water thereto and therefrom, in, upon and through any land lying between the reservoirs and waterworks and the lake, river, pond, spring or stream of water from which the water is procured or between them, or any of them, and the municipality.

Power to  
enter on  
inter-  
mediate  
lands

(2) The corporation and its servants may for such purposes enter and pass upon and over such intermediate land, and may, if necessary, cut and dig up the same and lay pipes through it, and in, upon, through, over and under the highways, lanes and other public communications within the municipality, or within the distance limited by subsection 2 of section 2, and in, upon, through, over and under the land of any person within the municipality.

Duty of  
restoration

(3) All such highways, lanes or other public communications, and all land, not being the property of the corporation, shall be restored to their original condition without unnecessary delay.

Power to  
expropriate

(4) The corporation may purchase or expropriate, use and occupy such part of such intermediate land as it may deem necessary for the making and maintaining of the works, or for the opening of new streets required for the same, or for the protection of the works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the pipes, and for distributing water to the inhabitants of the municipality, or for the uses of the corporation or of the owners or occupants of the land through or near which the pipes may pass. R.S.O. 1950, c. 320, s. 4.

Power to  
lay down  
pipes

5. For the purpose of distributing the water the corporation may sink and lay down pipes, tanks, reservoirs and other conveniences, and may from time to time alter their location or construction as the corporation may deem advisable. R.S.O. 1950, c. 320, s. 5.

Service  
pipes

6.—(1) The service pipes shall be laid down from the main pipe to the line of the highway by the corporation, and the corporation is responsible for keeping the same in repair.

Laying of,  
from line of  
street to  
wall of  
building

(2) Where a vacant space intervenes between the outer line of a highway and the wall of a building or other place into which the water is to be taken, the corporation may, with the consent of the owner, lay the service pipe across the vacant space to the interior face of the outer wall and charge the cost thereof to the owner of the premises, or the owner may himself lay the service pipe, if it is done to the satisfaction of the corporation.

(3) The expense incidental to the laying and repairing of service pipes if laid or repaired by the corporation, except the repairing of the service pipes from the main pipe to the line of a highway, or of superintending the laying or repairing of the same if laid or repaired by any other person, is payable by the owner to the corporation on demand, and if not so paid may be collected in the same manner as water rates. Expenses of laying

(4) The expense of superintending the laying or repairing of a service pipe shall not exceed \$1. R.S.O. 1950, c. 320, s. 6. Expenses of superintending

7.—(1) The service pipes from the line of a highway to the interior face of the outer wall of the building supplied, together with all branches, couplings, stopcocks and apparatus placed therein by the corporation are under its control, and if any damage is done to that portion of the service pipe or its fittings the owner or occupant of the building shall forthwith repair the same to the satisfaction of the corporation, and, in default of his so doing, whether notified or not, the corporation may enter upon the land where the service pipe is and repair the same, and charge the cost thereof to the owner or occupant of the premises, and the cost may be collected in the same manner as water rates. Service pipe to be under control of corporation

(2) The stopcock placed by the corporation inside the wall of the building shall not be used by the water taker, except in case of accident, or for the protection of the building or the pipe and to prevent the flooding of the premises. Prohibition as to using stopcock

(3) Persons supplied with water by the corporation may be required to place only such taps for drawing and shutting off the water as are approved of by the corporation. R.S.O. 1950, c. 320, s. 7. Approval of taps by corporation

8. The corporation may regulate the distribution and use of the water in all places where and for all purposes for which it may be required, and fix the prices for the use thereof, and the times of payment, and may erect such number of public hydrants and in such places as it may see fit, and may direct in what manner and for what purposes the same shall be used, and may fix the rate or rent to be paid for the use of the water by hydrants, fireplugs and public buildings. R.S.O. 1950, c. 320, s. 8. Regulation of use of water and of rates

9.—(1) The corporation of every municipality having a system of waterworks shall supply water at all times to all public institutions situate therein or within three miles thereof and belonging to or maintained by the Province at such rents, rates or prices as may be fixed by by-law of the corporation, but not exceeding those charged to manufacturers, provided Rates at which water to be supplied to provincial institutions

that any expenditure on works beyond the limits of the municipality chargeable to capital account, shall be borne and paid by the Province.

## Penalty

(2) For every contravention of subsection 1, the corporation is liable to a penalty of not more than \$500, recoverable by action at the suit of the Crown. R.S.O. 1950, c. 320, s. 9.

Non-liability  
for breakage  
or stoppage

**10.** The corporation is not liable for damages caused by the breaking of any service pipe or attachment, or for shutting off of water to repair or to tap mains, if reasonable notice of the intention to shut off the water is given. R.S.O. 1950, c. 320, s. 10.

Power to  
supply water  
outside  
municipality

**11.**—(1) A corporation may supply water to owners or occupants of land beyond the limits of the municipality. R.S.O. 1950, c. 320, s. 11 (1).

Contracts  
for supply  
of water

(2) A corporation may enter into a contract for a term not exceeding twenty years for the supply of water,

(a) to any person within or beyond the limits of the municipality; and

R.S.O. 1960,  
c. 98

(b) to any other municipality, as defined in *The Department of Municipal Affairs Act*, for its use or for resale or to the inhabitants thereof for their use,

and may renew any such contract. 1951, c. 75, s. 1 (1).

Consent to  
lay pipes

(3) Where water is supplied in a municipality that has a waterworks, no pipes for such purpose shall be carried in, upon, through, over or under any highway, lane or public communication within the municipality without the consent of the council thereof. R.S.O. 1950, c. 320, s. 11 (3).

Laying of  
pipes in  
supplying  
municipality

(4) Subject to sections 2 to 4, where a municipality contracts to purchase water from a municipal corporation, it may with the consent of the council of the supplying municipality enter upon the lands and streets within the supplying municipality to lay and maintain such pipes as are necessary to obtain the water from the waterworks system of the supplying municipality. 1951, c. 75, s. 1 (2).

Power to  
regulate  
supply and  
to prohibit  
wrongful  
use of  
water

**12.** The corporation may pass by-laws for regulating the time, manner, extent and nature of the supply by the works, the building or persons to which and to whom the water shall be furnished, the price to be paid therefor, and every other matter or thing related to or connected therewith that it may be necessary or proper to regulate, in order to secure to the inhabitants of the municipality a continued and abundant supply of pure and wholesome water, and to prevent the prac-



tising of frauds upon the corporation with regard to the water so supplied, and for providing that for a contravention of any such by-law the offender is guilty of an offence and on summary conviction is liable to a fine of not more than \$20 or may be imprisoned without the option of a fine for a term of not more than one month. R.S.O. 1950, c. 320, s. 12.

**13.** Every person who,

Prohibitions  
and  
penalties

- (a) wilfully hinders or interrupts, or causes or procures to be hindered or interrupted the corporation, or any of its officers, contractors, agents, servants or workmen, in the exercise of any of the powers conferred by this Act;
- (b) wilfully lets off or discharges water so that the water runs waste or useless out of the works;
- (c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from the waterworks, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own, increases the supply of water agreed for, or improperly wastes the water;
- (d) without lawful authority wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stopcock, chamber, pipe, or hydrant-chamber, by placing on it any building material, rubbish, or other obstruction;
- (e) throws or deposits any injurious, noisome or offensive matter into the water or waterworks, or upon the ice, if the water is frozen, or in any way fouls the water or commits any wilful damage, or injury to the works, pipes, or water, or encourages the same to be done;
- (f) wilfully alters any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or alter the amount of water registered; or
- (g) lays or causes to be laid any pipe or main to communicate with any pipe or main of the waterworks, or in any way obtains or uses the water without the consent of the corporation,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$20 or may be imprisoned, without the option of a fine, for a term of not more than one month. R.S.O. 1950, c. 320, ss. 13, 57; 1958, c. 91, s. 2.

Power to  
levy special  
rate

**14.**—(1) For the purpose of assisting in the payment of any debentures issued for waterworks purposes, and the interest thereon, the corporation may impose a special tax in each year, during the currency of the debentures, not exceeding four mills in the dollar according to the assessed value thereof, upon the land fronting or abutting upon any highway, lane or other public communication in, through or along which the waterworks mains are laid, as well as all other land distant not more than 300 feet therefrom, which enjoy the advantage of the use of the water for the purpose of protection against fire, whether or not the owners or occupants thereof use the water for general purposes.

Power to  
remit  
special tax

(2) The collector of taxes, upon the production by an owner or occupant using the water of the receipt for the payment of the rate or rent chargeable for the use thereof during the year, or such proportion thereof as equals the special tax, shall remit or allow to the owner or occupant the amount so paid as a payment of or on account of the special tax. R.S.O. 1950, c. 320, s. 14.

Construc-  
tion of  
mains, etc.,  
for benefit  
of indi-  
viduals

**15.** If one or more property owners within a municipality applies to the council for the construction of water mains and other works necessary to connect their properties with the waterworks system of the corporation, the council may by by-law provide for the extension of the mains and pipes and for all other works necessary to make the connection, and for permitting the applicants to receive the benefit of the waterworks upon such terms as the council may deem just, and the by-law may further provide that the cost of the work shall be charged as an annual special rate upon the land of the applicants, designated in the application, and the rate shall be payable whether or not the applicants or the owners for the time being of the lands continue to use the water. R.S.O. 1950, c. 320, s. 15.

Power to  
levy special  
rate

**16.**—(1) The corporation may impose a special rate or rent in respect of the cost or maintenance of a water main on persons who own or occupy land in the municipality or in a water area where the land fronts or abuts on a highway, lane or other public communication in, through or along which the main is laid, provided no such person is liable to pay a special rate or rent in respect of the cost of the main where local improvement rates for the main have been or are being levied upon the land so owned or occupied.

Manner of  
collection

R.S.O. 1960,  
c. 23

(2) The special rate or rent may be collected in the same manner and with like remedies as water rates or in the same manner and with like remedies as taxes under *The Assessment Act*. R.S.O. 1950, c. 320, s. 16.

## PART II

## MUNICIPAL PUBLIC UTILITY WORKS OTHER THAN WATERWORKS

**17.** In this Part, "public utility" means artificial and natural gas, electrical power or energy, steam or hot water. Interpretation  
R.S.O. 1950, c. 320, s. 17.

**18.—(1)** The corporation of any municipality may manufacture, procure, produce and supply for its own use and the use of the inhabitants of the municipality any public utility for any purpose for which the utility may be used, and for such purposes may purchase, construct, improve, extend, maintain and operate any works that may be deemed requisite and may acquire any patent or other right for the manufacture, production or supply of any such public utility, and for any of the said purposes or for any purpose for which a public utility may be used, may acquire by purchase or otherwise fittings, fixtures, apparatus, appliances, machines, meters and other equipment and may supply or dispose of the same by sale, lease or otherwise and may provide for the installation and maintenance thereof in or upon the lands and premises of users of the public utility. Power of corporation to produce and supply public utilities

(2) The corporation may sell and dispose of coke, tar, and every other by-product or residuum obtained in or from its works, and any surplus coal it may have on hand. May sell by-products

(3) The corporation may purchase or rent such land and buildings as may be deemed necessary for the purpose of its undertaking. R.S.O. 1950, c. 320, s. 18. May rent or purchase lands

**19.—(1)** Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into, the corporation of any municipality or any municipal commission established under this or any other Act which supplies to any person electrical power or energy supplied to it by The Hydro-Electric Power Commission of Ontario may allocate and distribute its available power amongst its customers and interrupt or decrease the delivery of electrical power or energy under any contract at any time that its own supply of electrical power or energy is interrupted or decreased by The Hydro-Electric Power Commission of Ontario pursuant to *The Power Commission Act*. Allocation and distribution of available power

R.S.O. 1960,  
c. 300

(2) Nothing done under subsection 1 shall be deemed a breach of contract or entitles any person to rescind any contract or release any guarantor from performance of his obligations. R.S.O. 1950, c. 320, s. 19. No breach of contract

Power to  
expropriate  
lands for  
works

R.S.O. 1960,  
c. 249

**20.** The corporation may acquire by purchase, lease or otherwise, or may expropriate any land in the municipality that may be required for its works or any extension thereof, and Part XV of *The Municipal Act* applies to the exercise by the corporation of the power to expropriate and of the power conferred by section 23. R.S.O. 1950, c. 320, s. 20.

Corporation  
may carry  
pipes, etc.,  
on highways

**21.** The corporation, for the purpose of any municipal public utility works, has and always has had authority to put down, carry, install, construct, erect and maintain such conduits, pipes, wires, poles, rods, cables, transformers, machinery, apparatus, devices, appliances, equipment, materials, structures or works as it deems necessary or desirable, on, over, under or across any highway, lane or other public communication or, with the consent of the owner of private property, on, over, under or across such private property and has and always has had authority to remove or replace any of them. 1957, c. 103, s. 1, *part*.

May carry  
pipes, etc.,  
through  
buildings  
to serve  
other parts  
of buildings

**22.—(1)** The corporation may carry conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment to any part of any building within the municipality parts of which belong to different owners, or are in possession of different tenants or occupants, passing over the property of any owner or of any tenant or occupant to convey the public utility to the part of the building to which it is to be conveyed.

Method

**(2)** Such conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment shall be carried up and attached to the outside of the building unless consent is obtained from the owner, tenant or occupant concerned to carry them in the inside of the building. 1957, c. 103, s. 1, *part*.

May break  
up passages  
common to  
neighbouring  
owners, etc.

**23.** The corporation may also break up and uplift all passages common to neighbouring owners, tenants or occupants, and dig or cut trenches therein, for the purpose of laying down conduits, pipes, wires, rods, cables and other apparatus, devices, appliances and equipment, or taking up, examining or repairing the same, and shall do as little damage as possible in the execution of the powers hereby conferred, and shall restore such passages to their original condition without unnecessary delay. 1957, c. 103, s. 1, *part*.

Contracts  
for supply  
of utility

R.S.O. 1960,  
c. 98

**24.** The corporation may enter into a contract for the supply of a public utility to any person, including a municipality as defined in *The Department of Municipal Affairs Act*, for a term not exceeding twenty years, and may renew any such contract. 1951, c. 75, s. 2.

**25.** A corporation possessing or intending to construct works under this Act may, under the authority of a by-law of an adjoining local municipality, exercise the like powers within the adjoining municipality, including the power to supply the public utility to owners and occupants of land in the adjoining municipality, as it may exercise within its own municipality upon such terms and conditions as may be agreed upon. R.S.O. 1950, c. 320, s. 25.

Power to carry works into adjoining municipalities

### PART III

#### ALL MUNICIPAL PUBLIC UTILITIES

**26.** This Part applies to all municipal corporations own- Application of Part  
ing or operating public utilities. R.S.O. 1950, c. 320, s. 26.

**27.**—(1) The council may pass by-laws for the maintenance and management of the works and the conduct of the officers and others employed in connection with them, and may also by by-law or resolution fix the rates or charges for supplying the public utility and the charges to meet the cost of any work or service done or furnished for the purpose of a supply of a public utility, and the rent of or charges for fittings, apparatus, meters or other things leased or furnished to consumers and provide for the collection of such rates, charges and rents, and the times and places when and where they shall be payable, and for allowing for prepayment or punctual payment such discount as may be deemed expedient.

By-laws for maintenance and management of works

(2) In fixing the rents, rates or prices to be paid for the supply of a public utility the corporation may use its discretion as to the rents, rates or prices to be charged to the various classes of consumers and also as to the rents, rates or prices at which a public utility shall be supplied for the different purposes for which it may be supplied or required.

Discretion as to rates to be charged

(3) In default of payment the corporation may shut off the supply but the rents or rates in default are, nevertheless, recoverable.

Power to shut off supply

(4) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to The Hydro-Electric Power Commission of Ontario is a debt and may be recovered by action in a court of competent jurisdiction. R.S.O. 1950, c. 320, s. 27.

Action to recover amount payable

**28.** No rate to provide for the maintenance or management of any utility shall be levied except to the extent to which the revenues from the utility are insufficient for such purposes. R.S.O. 1950, c. 320, s. 28.

Amount of rate

Change of  
frequency

**29.**—(1) Where The Hydro-Electric Power Commission of Ontario changes the periodicity in alternations of current at which it supplies electrical power or energy to a municipal corporation or a commission, the corporation or commission may change the periodicity in alternations of current at which it supplies that electrical power or energy to any person, notwithstanding any agreement heretofore or hereafter made.

Conversion  
not breach  
of contract

(2) Nothing done under subsection 1 shall be deemed a breach of contract by the municipal corporation or commission or entitles any person to rescind any agreement or release any guarantor from the performance of his obligation, or renders the municipal corporation or commission, its servants or agents liable in any action or other legal proceeding for damages or otherwise. R.S.O. 1950, c. 320, s. 29.

Extent to  
which  
amount pay-  
able to  
form lien  
on land

**30.**—(1) The amount payable to a municipal corporation or to a public utility or hydro-electric commission of a municipality or to The Hydro-Electric Power Commission of Ontario for a period not exceeding three months by the owner or occupant of any lands for the public utility supplied to him for use thereon is a lien and charge upon the estate or interest in such land of the person by whom the amount is due and may be collected by distress upon the goods and chattels of the person and by the sale of his estate and interest in the lands.

Entry by  
clerk on  
collector's  
roll

(2) The clerk of the municipality shall, upon notice to him of the amount due and of the person by whom it is due and of the lands upon which a lien is claimed, enter the amount upon the collector's roll and the collector shall proceed to collect the amount from the goods and chattels and the estate or interest in the lands of the person liable in the same way, as nearly as may be, as municipal taxes are collected.

Right to  
distrain

(3) The municipal corporation or the public utility or hydro-electric commission, before taking proceedings under subsection 2, may itself distrain upon the goods and chattels of the person liable to pay for the amount due for any public utility supplied to him.

Determina-  
tion of  
amount  
payable in  
case of  
dispute

(4) In the event of the owner of the goods and chattels or of the land disputing the amount payable for the public utility, the question of the amount due may be determined by the judge of the county court upon a summary application at the instance of either party and the collector's roll or distress warrant shall, if necessary, be amended in accordance with the findings of the judge. R.S.O. 1950, c. 320, s. 30.

Protection  
and powers  
of officers

**31.** The officers of the corporation, when acting in the discharge of their duties under this Act, are constables *ex officio*. R.S.O. 1950, c. 320, s. 31.

**32.** No action shall be brought against any person for any-<sup>Limitation of actions</sup> thing done in pursuance of this Act, but within six months next after the act committed, or in case there is a continuation of damage, within one year after the original cause of action arose. R.S.O. 1950, c. 320, s. 32.

**33.** Materials procured under contract with the corpora-<sup>Property exempt from execution</sup> tion and upon which the corporation has made advances in accordance with the contract, are exempt from execution against the person who supplied or contracted to supply the materials. R.S.O. 1950, c. 320, s. 33.

**34.** The public utility works and the land acquired for the<sup>Money borrowed to be a charge on works</sup> purpose thereof and the property appertaining thereto, are specially charged with the repayment of any sum borrowed by the corporation for the purposes thereof, and for any debentures issued therefor, and the holders of the debentures have a preferential charge on such works, land and property for securing the payment of the debentures and the interest thereon. R.S.O. 1950, c. 320, s. 34.

**35.—(1)** Notwithstanding anything in *The Municipal Act*, the receipts arising from supplying any public utility or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operations of the utility and after making any provision authorized by the council for a reserve fund established under section 298 of *The Municipal Act*, shall, quarterly or oftener if the council so<sup>Excess of receipts over expenditures to be paid to municipal treasurer</sup> directs, be paid over to the treasurer of the municipality and shall be placed to the credit of the utility in a separate account until the debentures and other forms of capital debt have been retired, and thereafter shall form part of the general funds of the municipality. R.S.O. 1950, c. 320, s. 35 (1); 1951, c. 75, s. 3.

**(2)** Where debentures or other forms of capital debt are<sup>Application of receipts</sup> outstanding in any year against the utility, the treasurer of the municipality shall apply the receipts paid over under subsection 1 in payment of the amount required to be levied under any debenture by-law of the municipality for the construction, extension or improvement of the utility, or with the approval of the council or the Department of Municipal Affairs,

- (a) in payment of temporary advances required for current expenditures of the utility pending the collection of revenue; or
- (b) in the reduction of any indebtedness incurred with respect to the works and equipment of the utility; or
- (c) in the maintenance, repair, renewal or extension of the utility; or

- (d) in establishing a reserve fund to be used at any future time for any purpose mentioned in this subsection. R.S.O. 1950, c. 320, s. 35 (2); 1957, c. 103, s. 2.

Where levy  
of rate  
necessary

R.S.O. 1960,  
c. 223

(3) It is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under *The Local Improvement Act*, except to the extent to which the receipts paid over under subsection 1 are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1950, c. 320, s. 35 (3); 1958, c. 91, s. 3.

Electric  
utilities  
excepted

(4) This section does not apply to any electrical public utility for which electrical power and energy are supplied by The Hydro-Electric Power Commission of Ontario. R.S.O. 1950, c. 320, s. 35 (4).

Electrical  
utilities

R.S.O. 1960,  
cc. 300, 223

**36.** The receipts arising from supplying an electrical public utility for which electrical power and energy are supplied by The Hydro-Electric Power Commission of Ontario or from property connected with the utility, after providing for the expenditures incurred for the maintenance and operation of the utility and any payments required by *The Power Commission Act*, shall, quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality to the extent and in such amounts as are necessary to provide for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the distribution of electrical power and energy, and it is not necessary to levy any rate to provide for sinking fund and interest or other payments on account of any debentures issued by the municipality for the construction, extension or improvement of the utility, other than those issued under *The Local Improvement Act*, except to the extent to which the receipts paid over hereunder are insufficient to meet the annual payments falling due on account of principal and interest of the debentures. R.S.O. 1950, c. 320, s. 36; 1960, c. 100, s. 1.

Disposal  
of public  
utility  
properties

**37.—**(1) Subject to subsections 4, 5 and 6 and notwithstanding section 34 the corporation may, free from any charge or lien, sell, lease or otherwise dispose of a public utility undertaking, or the whole or any part of the real or personal property acquired, held or used for or in connection with a public utility undertaking, which in the opinion of the council is no longer required for the purpose of the corporation or for the undertaking.



(2) The proceeds derived from any sale, lease or other disposition of such undertaking or property shall be applied in redemption and payment of any debentures of the corporation issued in respect of the public utility undertaking, or if there are no such debentures, then in case of sale or disposal of a portion only of the property the proceeds thereof shall be applied for the undertaking in connection with which the property was held or used and in case of sale or disposal of the whole of the property or of the undertaking the proceeds thereof shall form part of the general funds of the corporation, and any security received or held by the corporation for any part of the consideration payable on the sale, lease or other disposition shall stand as security for such debentures or be applied for the undertaking or form part of the general funds of the corporation, as the case may be.

Application  
of proceeds  
of disposal

(3) In a case where there are no debentures to the redemption and payment of which proceeds derived from any sale or disposal of an undertaking or property may be applied, the proceeds may be applied in redemption of other debentures of the corporation or with the approval of the Ontario Municipal Board may be applied for purposes of a capital nature; provided that where a portion only of the property of an undertaking for the supply of electrical power or energy obtained from The Hydro-Electric Power Commission of Ontario is sold or disposed of the proceeds shall be applied only as that Commission may approve.

Approval  
necessary  
as to appli-  
cation of  
proceeds

(4) A corporation shall not sell, lease or otherwise dispose of the whole of a public utility undertaking or the whole of the property acquired, held or used for or in connection with a public utility undertaking without the assent of the electors qualified to vote on money by-laws first being obtained thereto in the manner provided by *The Municipal Act* with respect to a money by-law requiring the assent of the electors.

When  
assent of  
electors  
requisite

R.S.O. 1960,  
c. 249

(5) A corporation shall not sell, lease or otherwise dispose of a portion only of the property acquired or held for or in connection with a public utility undertaking so long as that portion is actually used for the purposes of the undertaking, except with the approval of the Ontario Municipal Board, and on such application the Board may direct that the assent of the electors qualified to vote on money by-laws shall first be obtained in the manner aforesaid.

When  
approval of  
Ontario  
Municipal  
Board  
requisite  
for sale

(6) A corporation shall not sell, lease or otherwise dispose of the whole of the public utility undertaking for the supply of electrical power or energy obtained directly or indirectly from The Hydro-Electric Power Commission of Ontario or of the whole of the property acquired, held or used for or in connection therewith or of any part thereof that is no longer

When assent  
of Power  
Commission  
requisite

required for the undertaking or for the purpose of the corporation, or for so long as the undertaking is being operated by or for the corporation, sell, lease or otherwise dispose of any part of the property that is actually used for the purposes of the undertaking without the assent of The Hydro-Electric Power Commission of Ontario first being obtained thereto.

Procedure  
when a  
commission  
operates a  
utility

(7) Where the powers of a corporation with respect to a public utility undertaking are exercised by a commission, the council shall, upon the request of the commission, submit to the qualified electors a by-law to authorize any sale, lease or other disposition of the undertaking or the whole or any part of the property acquired, held or used for or in connection therewith that under this section is required to be assented to by the electors.

Short leases  
excepted

(8) Subsections 4, 5 and 6 do not apply to a lease for a term not exceeding five years of a portion of the property of a public utility undertaking.

Application  
of section

(9) This section applies to sales, leases and other dispositions of a public utility undertaking and of any property acquired, held or used for or in connection with a public utility undertaking, completed after the 1st day of March, 1931. R.S.O. 1950, c. 320, s. 37.

#### PUBLIC UTILITY COMMISSION

Establish-  
ment of  
municipal  
commission

**38.**—(1) Subject to subsections 2 to 6, the council of a municipal corporation that owns or operates works for the production, manufacture or supply of any public utility or is about to establish such works, and the council of a township corporation that has entered into a contract with The Hydro-Electric Power Commission of Ontario for a supply of electrical power or energy in the township, may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the works and the control and management of the works to a commission to be called "The Public Utilities Commission of the (*naming the municipality*)," or in the case of such township, "The Hydro-Electric Commission of the Township of (*naming the township*)," or to a commission established under this Part.

Appoint-  
ment of  
commission  
for village  
R.S.O. 1960,  
c. 300

(2) Where the corporation of a village has entered into a contract with The Hydro-Electric Power Commission of Ontario under *The Power Commission Act* for a supply of electrical power or energy, a commission may be established by by-law of the council under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and it is not necessary that the by-law receive the assent of the electors.

(3) Every such commission established by the council of a village before the 12th day of April, 1917 shall be deemed to have been lawfully established, and the by-law establishing the commission shall be deemed to be and to have been legal, valid and binding from the time of the passing thereof, notwithstanding that the by-law was passed and the commission was established without the assent of the electors first having been obtained. Village commissions already established

(4) A by-law passed by the council of a village for the establishment of a commission without the assent of the electors may be repealed by the council at any time and it is not necessary to obtain the assent of the electors to the repeal. Repeal of village by-law establishing commission

(5) Where a by-law establishing a commission in a village has been passed with the assent of the electors the by-law may be repealed with the like assent. Assent of electors

(6) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works are vested in the council and the commission ceases to exist. Effect of repeal  
R.S.O. 1950, c. 320, s. 38.

**39.** A commission established under *The Municipal Light and Heat Act* or *The Municipal Waterworks Act*, being chapters 234 and 235 of *The Revised Statutes of Ontario, 1897*, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall be deemed to be a commission established under this Part and the provisions of this Part apply to it. R.S.O. 1950, c. 320, s. 39. Commissions established under R.S.O. 1897, cc. 234, 235 continued

**40.—(1)** Where a commission has been established under this Part as to any public utility and the corporation desires to entrust the control and management of any other public utility works to a commission, subject to subsection 3, such control and management shall be entrusted to the commission so established, or if there is more than one commission so established to one of them, or the by-law may provide for placing under the control and management of one commission all public utility works owned by the corporation. One commission for several public utilities

(2) Where the construction of any other public utility works and the control and management of them is entrusted to any of the commissions mentioned in section 39, the commission thereafter shall be called "The Public Utility Commission of the (*naming the municipality*)". Name

(3) Where the corporation of a city or town has entered into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy, a com- Special provisions as to Hydro-Electric Commission

mission shall be established under this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy, and for the purposes of this subsection it is not necessary that the by-law receive the assent of the electors, or such control and management shall be entrusted to an existing public utilities commission, and, where the commission is not entrusted with the control and management of any other public utility, it shall be called "The Hydro-Electric Commission of the (*naming the municipality*)".

Special Act  
not affected

(4) Subsection 3 is subject to any special Act providing for the control and management of such works.

Certain by-  
laws not to  
be repealed

(5) A By-law of the council, for the purposes mentioned in subsection 3, shall not be repealed without the consent of The Hydro-Electric Power Commission of Ontario.

Provision  
for manage-  
ment of  
sewerage  
system  
R.S.O. 1960,  
c. 249

(6) If no commission has been established under this Part to which the control and management of a sewerage system, to which paragraph 5 of section 386 of *The Municipal Act* applies, may be entrusted, a commission may be established under this Part for the control and management of the sewerage system, and the provisions of this Part apply to it. R.S.O. 1950, c. 320, s. 40.

Powers of  
commission

**41.**—(1) Subject to subsection 4, where a commission has been established under this Part and the members thereof have been elected or where the control and management of any other public utility works are entrusted to a commission established under this Part, all the powers, rights, authorities and privileges that are by this Act conferred on a corporation shall, while the by-laws for establishing the commission or entrusting it with the control and management remain in force, be exercised by the commission and not by the council of the corporation.

Officers of  
corporation  
to hold  
office

(2) The officers and employees of the corporation shall be continued until removed by the commission unless their engagement sooner terminates.

During  
pleasure

(3) Every officer, employee and servant of a commission shall hold office during the pleasure of the commission.

Council  
to provide  
money  
required  
for works

(4) Nothing in this section divests the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided, and nothing in this Act divests the council of the rights and powers conferred upon it by *The Local Improvement Act*.

R.S.O. 1950,  
c. 223

(5) Where the construction or control and management of a public utility works belonging to a municipal corporation is entrusted to a commission, <sup>Limitations on powers of commission</sup>

~~(a)~~ no part of the works shall be undertaken in or extended into and no supply of the public utility shall be furnished to or in any other municipality by the commission without the consent of the council of the corporation to which the public utility works belong; and

(b) no extensions, additions, enlargements, improvements or alterations in, of or to the works shall be undertaken by the commission without the consent of the council of the corporation to which the public utility works belong, if the cost or any part of the cost is intended to be provided for out of moneys that under section 35 are required to be paid to the treasurer of the municipality. R.S.O. 1950, c. 320, s. 41.

**42.—**(1) A commission established under this Part is a body corporate and shall consist of three or five members as <sup>Number of commissioners</sup> may be provided by the by-law, of whom the head of the council shall be one *ex officio* and the others shall be elected at the same time and place and in the same manner as the head of the council, and subject to subsection 3 the elected members shall hold office for two years and until their successors are elected and the new commission is organized.

(2) When the commission functions in a defined area or <sup>Areas</sup> areas, the members to be elected shall be elected by the electors of the area or areas, as the case may be.

(3) One-half of the first elected members shall hold office <sup>Term of office</sup> for two years and the other one-half for one year, and shall continue in office until their successors are elected and the new commission is organized.

(4) At the first meeting of the commission after the first <sup>Term of office to be determined by lot</sup> election the members who are to hold office for two years shall be chosen by lot.

(5) Where a commission has been in existence for not less than five years, the council of the corporation may by by-law provide that from the time of the municipal elections next ensuing the number of members of the commission, <sup>Increasing or decreasing number of commission members</sup>

(a) if it consists of three members, shall be increased to five members; or

(b) if it consists of five members, shall be decreased to three members,

subject, however, to the assent of the electors if the existing number of members was established by a by-law passed with the assent of the electors.

Where the  
number is  
increased

(6) Where the number of members of a commission is to be increased to five members the elected member then holding office for a term that does not expire until the end of the next succeeding year shall not be affected and he may continue to hold office until the expiration of the term for which he was elected, and at the municipal elections next ensuing after the by-law is passed three members of the commission shall be elected of whom the two elected who receive the highest number of votes shall hold office for a term of two years and until their successors are elected and the third elected shall hold office for a term of one year and until his successor is elected.

Where the  
number is  
decreased

(7) Where the number of members of a commission is to be decreased to three members, that one of the two members last elected for a term of two years who received the higher number of votes shall continue to hold office until the expiration of the term for which he was elected and the other three members shall hold office until the expiration of the then current year only; and at the municipal elections next ensuing after the by-law is passed, one member of the commission shall be elected to hold office for a term of two years and until his successor is elected.

Acclamation  
or equality  
of votes

(8) Where in subsection 6 or 7 it is provided that the term of office of any member be determined in relation to the number of votes he received at his election and such determination is impossible by reason of an acclamation to office or there having been an equality of votes at the election, the matter shall be determined by the casting of lots by the members affected.

Two-year  
term

(9) At every election after the first municipal election the members or member to be elected as provided in subsection 6 or 7 shall be elected for a term of two years and until their respective successors are elected.

Head of  
council not  
affected

(10) Nothing in subsections 5, 6, 7 and 9 affects the *ex officio* membership in a commission of the head of the council.

Future  
changes in  
commission  
membership

(11) Where the number of members of a commission is increased or decreased by a by-law passed under subsection 5, no further change in the number of members shall be made until the by-law has been in force for not less than five years.

Mode of  
election  
R.S.O. 1960,  
c. 249

(12) Except where otherwise expressly provided, the provisions of Parts II, III and IV of *The Municipal Act* that are applicable to members of the council of a local municipality apply *mutatis mutandis* to the commissioners to be elected under this Part. R.S.O. 1950, c. 320, s. 42.

**43.**—(1) Where a vacancy in the commission occurs from any cause the council shall immediately appoint a successor who shall hold office during the remainder of the term for which his predecessor was elected. Filling of vacancies

(2) A majority of the commissioners constitutes a quorum of the commission. R.S.O. 1950, c. 320, s. 43. Quorum

**44.**—(1) The salary, if any, of the commissioners shall from time to time be fixed by the council and no member of the council, except the head thereof, shall at the same time be a member of the commission. Salary of commissioners

(2) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by The Hydro-Electric Power Commission of Ontario, the salary or other remuneration of the commissioners, so far as it is chargeable to such works, is subject to the approval of The Hydro-Electric Power Commission of Ontario, and when the approval has been given the salary or other remuneration shall not be changed or discontinued by the council without the consent of The Hydro-Electric Power Commission of Ontario. Approval of salaries by Power Commission

(3) Where a commission is established that has the control and management of works constructed for the distribution of electrical power or energy supplied by The Hydro-Electric Power Commission of Ontario and also the control and management of works for one or more other public utilities, no utility shall be charged with more than its *pro rata* share, according to the number of utilities operated, of any costs, charges and expenditures incurred or made by the commission for any joint purpose, including rents and the salaries of the joint employees without the consent and approval of The Hydro-Electric Power Commission of Ontario. Approval of commission as to share of costs

(4) Where electrical power or energy received under contract from The Hydro-Electric Power Commission of Ontario is being distributed in a municipality the electric utility shall not be charged with more than its *pro rata* share approved by The Hydro-Electric Power Commission of Ontario of any costs, charges and expenditures incurred or made jointly for the purpose of the utility and for any other municipal purpose including in such costs, charges and expenditures all rents and the salaries and wages of joint employees. R.S.O. 1950, c. 320, s. 44. Approval of Power Commission as to sharing cost with municipality

**45.**—(1) The council may, by by-law passed with the assent of the municipal electors, repeal any by-law passed under sections 38, 39 and 40. Repeal of by-law

Apportion-  
ment of  
salaries

(2) Where a by-law is repealed the council shall apportion the current year's salary of the commissioners, and any officer or employee of the commission shall be continued until removed by the council unless his engagement sooner terminates. R.S.O. 1950, c. 320, s. 45.

Book and  
accounts

**46.**—(1) Separate books and accounts of the revenues derived from every public utility under its management shall be kept by the commission, and such books and accounts shall also be kept separate from the books and accounts relating to the other property, funds, or assets connected with such public utility, and such books and accounts shall be open to inspection by any person appointed for that purpose by the council.

Idem  
R.S.O. 1960,  
c. 98

(2) Subsection 1 is subject to section 10 of *The Department of Municipal Affairs Act*. R.S.O. 1950, c. 320, s. 46.

Annual  
statement  
to council

**47.**—(1) The commission shall on or before the 1st day of April in each year or upon such other day as the council may direct, furnish to the council a statement of affairs of each public utility undertaking, including in respect of each undertaking,

- (a) the number of customers supplied during the previous calendar year;
- (b) a balance sheet of assets and liabilities, including the value of the physical property, the amount of the sinking fund and the amount of current assets, also the amount of outstanding debentures and of current liabilities;
- (c) a statement of revenue and expenditure, including the amount received from customers and the amount of other revenue, if any, also the amount expended for operation and maintenance, improvements and extensions, and for salaries and other office and management expenses, and the amount paid or set aside for interest, principal and sinking fund on the debentures.

Information  
for council

(2) The commission shall also furnish such information as may be required by the council at any time.

Audit of  
accounts

(3) The accounts of the commission shall be audited by the auditors of the corporation, and the commission and its officers shall furnish to the auditors such information and assistance as may be in their power to enable the audit to be made.

Commis-  
sion's  
auditors

(4) The commission may, if it so desires, appoint auditors to audit the accounts of the commission, the expense to be borne by the utility. R.S.O. 1950, c. 320, s. 47.



**48.** A book wherein shall be recorded all the proceedings of the commission shall be kept and shall be open to inspection by any person appointed for that purpose by the council. Records of proceedings  
R.S.O. 1950, c. 320, s. 48.

## PART IV

### ALL MUNICIPAL AND COMPANY PUBLIC UTILITIES

**49.** This Part applies to all municipal or other corporations owning or operating public utilities. Application of Part  
R.S.O. 1950, c. 320, s. 49.

**50.—(1)** Any person authorized by the corporation for that purpose has free access, at all reasonable times, and upon reasonable notice given and request made, to all parts of every building or other premises to which any public utility is supplied for the purpose of inspecting or repairing, or of altering or disconnecting any service pipe, wire or rod, within or without the building, or for placing meters upon any service pipe or connection within or without the building as he may deem expedient and for that purpose or for the purpose of protecting or regulating the use of the meter, may set it or alter the position of it, or of any pipe, wire, rod, connection or tap, and may alter or disconnect any service pipe. Inspection of premises

(2) The corporation may fix the price to be paid for the use of the meter, and the times when and the manner in which the price shall be payable, and may also recover the expense of such alterations, and such price and the expense of such alterations may be collected in the same manner as rents or rates for the supply of a public utility. Prices for use of meters

(3) Where a consumer discontinues the use of the public utility, or the corporation lawfully refuses to continue any longer to supply it, the officers and servants of the corporation may, at all reasonable times, enter the premises in or upon which the consumer was supplied with the public utility, for the purpose of cutting off the supply of the utility or of making an inspection from time to time to determine whether the utility has been or is being unlawfully used or for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes or other things being the property of the corporation in or upon the premises, and may remove the same therefrom, doing no unnecessary damage. Removal of fittings from premises of consumers

(4) Any corporation before supplying any public utility to any person or to any building or premises, or as a condition of continuing to supply the utility, may require any consumer to give reasonable security for the payment of the proper charges therefor or for carrying the public utility into the building or premises. Power to require security from consumer  
R.S.O. 1950, c. 320, s. 50.

Property of  
corporation  
exempt  
from  
distress

**51.** No property of the corporation used for or in connection with the supply of any public utility is liable to be seized for rent due to the landlord of any land or building whereon or wherein the property may be or under execution against the owner or occupant of the land or building. R.S.O. 1950, c. 320, s. 51.

Liability of  
persons  
doing  
damage

**52.** Every person who, by act, default, neglect or omission occasions any loss, damage or injury to any public utility works, or to any plant, machinery, fitting or appurtenances thereof is liable to the corporation therefor. R.S.O. 1950, c. 320, s. 52.

Penalty for  
wilful  
damage

**53.** Every person who wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, service pipe, conduit, wire, rod or fitting belonging to the corporation, or wilfully impairs or knowingly suffers the same to be altered or impaired, so that the meter indicates less than the actual amount of the public utility that passes through it, is guilty of an offence and on summary conviction is liable to a fine, to the use of the corporation, of not less than \$4 and not more than \$20 and for the expenses of repairing or replacing the meter, lamp, lustre, service pipe, conduit, wire, rod or fitting and double the value of the surplus public utility so consumed, all of which is recoverable under *The Summary Convictions Act*. R.S.O. 1950, c. 320, s. 53, *amended*.

R.S.O. 1960,  
c. 387

Penalty for  
injuring  
public  
utility  
works

**54.** Every person who wilfully extinguishes any public lamp or light, or wilfully removes, destroys, damages, fraudulently alters or in any way injures any pipe, conduit, wire, rod, pedestal, post, plug, lamp or other apparatus or thing belonging to the corporation is guilty of an offence and on summary conviction is liable to a fine, to the use of the corporation, of not less than \$4 and not more than \$20, and is also liable for all damages occasioned thereby, which are recoverable under *The Summary Convictions Act*. R.S.O. 1950, c. 320, s. 54, *amended*.

Corporation  
to supply  
buildings on  
line of sup-  
ply, on  
request

**55.** Where there is a sufficient supply of the public utility the corporation shall supply all buildings within the municipality situate upon land lying along the line of any supply pipe, wire or rod, upon the request in writing of the owner, occupant or other person in charge of any such building. R.S.O. 1950, c. 320, s. 55.

Prohibition  
as to laying  
main pipes  
and conduits  
within 6 feet  
of existing  
ones

**56.—(1)** Main pipes or conduits for carrying or conveying any public utility underground in any highway, lane or public communication shall not be laid down therein by a municipal corporation or company within the distance of six

feet of the main pipes or conduits for carrying or conveying any public utility underground of any person without the consent of such person or the authority of the Ontario Municipal Board.

(2) The Board, upon the application of the corporation or company, and after notice to such person and hearing any objections that may be made, may authorize the main pipes or conduits to be laid down within such distance less than six feet as may be deemed proper, and all main pipes and conduits laid down in accordance with such authority shall be deemed to have been laid down under statutory authority and to be lawfully laid down, and may be maintained and operated by the corporation or company without its incurring any liability to such person in respect of the construction, maintenance or operation of them, except that provided for by subsection 5, any general or special statute or law to the contrary notwithstanding.

Ontario  
Municipal  
Board may  
grant leave  
to lay pipes  
within less  
than 6 feet

(3) Such authority may be granted subject to such conditions as the Board may deem necessary to prevent injury to the main pipes or conduits of such person, or to such person, his servants and workmen, in maintaining, repairing and operating them.

Conditions

(4) The powers conferred by this section may be exercised from time to time as occasion may require.

Exercise of  
powers

(5) If any damage or injury is done to the main pipes or conduits of such person, or is occasioned in the maintenance of them, by reason of the main pipes or conduits of the corporation or company being laid down at a distance less than six feet from the main pipes or conduits of such person, no action lies in respect thereof, but the corporation or company doing such damage or injury shall make due compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of compensation, shall be determined by arbitration, and the provisions of *The Municipal Act* apply *mutatis mutandis*.

Compensa-  
tion for  
damages

R.S.O. 1960,  
c. 249

(6) The person claiming damages shall, within one month after the expiration of any calendar year in which he claims that any such damage or injury has been so done or occasioned, give notice in writing to the corporation of his claim and the particulars thereof, and upon failure to do so, the right to compensation in respect of the damage or injury done or occasioned during that calendar year is forever barred. R.S.O. 1950, c. 320, s. 56.

Claim for  
damages

## PART V

## ALL COMPANY PUBLIC UTILITIES

Application  
of Part

**57.** This Part applies to every company incorporated for the purpose of supplying any public utility. R.S.O. 1950, c. 320, s. 58.

Conditions  
precedent to  
company  
carrying on  
business or  
expropriat-  
ing land  
R.S.O. 1960,  
c. 255

**58.**—(1) The company shall not exercise any of its powers within a municipality unless a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by *The Municipal Franchises Act* authorizing the company to exercise the power and the company when so authorized may exercise any of the powers of expropriation conferred on a municipal corporation by Parts I and II, if the power to expropriate is conferred on it by the letters patent incorporating the company or by supplementary letters patent.

Power to  
carry pipes  
through  
land within  
10 miles of  
municipality

(2) Subject to subsection 1, a company may conduct any of its pipes or carry any of its works through the land of any person lying within ten miles of the municipality for supplying which the company was incorporated.

Expropria-  
tion  
R.S.O. 1950,  
c. 331

(3) The powers of expropriation conferred on a company shall be exercised under and in accordance with *The Railways Act*. R.S.O. 1950, c. 320, s. 59.

Remedy for  
price of  
public utility  
furnished

**59.** If any person supplied with any public utility neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company, or any person acting under its authority, on giving forty-eight hours previous notice, may stop the supply from entering the premises of the person by cutting off the service pipes or by such other means as the company or its officers may deem proper, and the company may recover the rent or charge due up to that time, together with the expenses of cutting off the supply, notwithstanding any contract to furnish it for a longer time. R.S.O. 1950, c. 320, s. 60.

Charges by  
exporting  
gas com-  
panies

**60.** Where a natural gas company or natural gas transmitting company produces or transmits gas for export, the price or charge at which the gas shall be supplied is subject to regulation by the Lieutenant Governor in Council. R.S.O. 1950, c. 320, s. 61.

General  
powers

**61.** The provisions of sections 5, 6 and 7, except as to the manner of recovering charges and expenses, sections 9, 10 and 11 as to making agreements for a supply of water to a railway company or manufactory, and sections 13, 17, 18, 21, 22, 23 and 24, apply *mutatis mutandis*, to a company. R.S.O. 1950, c. 320, s. 62.

## PART VI

## ACQUIRING WORKS FROM COMPANIES

**62.—**(1) Where a by-law of the council of an urban municipality is passed with the assent of the electors entitled to vote on money by-laws declaring that it is expedient to acquire the works of a company incorporated on or after the 10th day of March, 1882 for the purpose of supplying within the municipality any public utility, the corporation may take possession of the works of the company and all property used in connection therewith for the purposes of supplying the public utility, whether the works and property, or any of them, are within or without the municipality, and shall pay therefor at a valuation to be determined by arbitration under *The Municipal Act*, subject to the provisions hereinafter mentioned.

Municipalities may acquire works of company on payment therefor

R.S.O. 1960, c. 249

(2) The arbitrators, in determining the amount to be paid for the works and property, shall first determine the actual value thereof, having regard to what they would cost if the works should be then constructed or the property then bought, making due allowance for deterioration, wear and tear, and all other proper allowances, and shall increase the amount so ascertained by 10 per cent thereof, which increased sum the arbitrators shall award as the amount to be paid by the corporation to the company, with interest from the date of their award.

Mode of computing value

(3) The amount shall be paid within six months from the date of the award, and the council shall take all requisite steps for providing the amount, and it is not necessary that a by-law passed for borrowing the amount shall receive the assent of the electors.

Time within which amount to be paid

(4) The council may, without submitting the question to the vote of the electors, take the proceedings authorized by subsection 1 for determining the amount to be paid for the works and property, upon notice to the company that the corporation intends to acquire the works and property by arbitration under the provisions of this Act; but in such case any by-law for raising money to pay therefor requires the assent of the electors and until the by-law is finally passed, the corporation shall not, unless with the consent of the company, take possession of the works or property, and in the event of the by-law not being passed, the corporation shall indemnify the company for all costs it has been put to in and about the arbitration.

Determination of value without assent of electors

(5) The council and the company may agree as to the amount to be paid for the works and property or any of them.

Amount may be settled by agreement

If amount  
not paid,  
rights of  
company to  
revive

(6) If the amount awarded or agreed to be paid to the company is not paid within six months after the time at which it is payable, the company may resume possession of its works and property, and all its rights in respect thereof thereupon revive.

Existing  
companies  
may consent  
to be bound  
by above  
provisions

(7) Any company incorporated before the 10th day of March, 1882, may, by by-law, declare that the company consents to be bound by the provisions of this section, and upon the passing of the by-law, this section applies to the company.

Limitations  
as to  
by-laws

(8) A by-law may be passed under subsection 1, with respect to a company incorporated before the 10th day of March, 1882, if an agreement has been made between the company and the corporation under which the corporation has the right at any time, or at any time after a date thereby fixed, not being later than ten years from the date of the agreement, to acquire the works of the company and all property used in connection therewith for such purposes, at a valuation to be determined by arbitration under *The Municipal Act*.

R.S.O. 1960,  
c. 249

Certain  
rights not  
affected

(9) Nothing in this section affects the right of a municipal corporation to acquire the works and property of any public utility company by agreement with the company, or any right of acquisition that has been or may be secured by any such corporation independently of the provisions of this section. R.S.O. 1950, c. 320, s. 63.

Power to  
subscribe  
for stock,  
etc.

**63.**—(1) Subject to *The Municipal Act*, the corporation of any municipality that has power to construct such works, and in which the public utility works of a company are situate, may subscribe for shares or take stock in the company or may loan money to it on mortgage or otherwise or guarantee payment of money borrowed by it.

When the  
head to be  
a director

(2) The head of a municipality the corporation of which holds stock in any such company to the extent of one-tenth or more of the whole of the capital stock is *ex officio* a director of the company so long as the corporation continues to hold stock to that extent. R.S.O. 1950, c. 320, s. 64.

## PART VII

### COMMISSION FOR RAILWAYS AND TELEPHONES

Commission  
to construct  
and manage  
railways  
and tele-  
phones

**64.** The council of a municipal corporation that owns or operates or is about to establish,

(a) a railway, an electric railway, a street railway or an incline railway; or

(b) telephone systems or lines,

may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the work and the control and management of it to a commission, to be called "The Public Service Commission of the (*naming the municipality*)" or to an existing public utilities commission established under this Act, and if such a by-law is passed, the provisions of sections 35 and 38 to 48 apply *mutatis mutandis* to the commission to which the construction, control and management of the work are entrusted and to the work. R.S.O. 1950, c. 320, s. 65.

## PART VIII

### MISCELLANEOUS

**65.** Nothing in this Act affects sections 98 to 106 of *The Power Commission Act*, and they continue to apply to the cases to which they now apply. R.S.O. 1950, c. 320, s. 66. Certain provisions of R.S.O. 1960, c. 300 not affected

**66.—**(1) After they have been submitted to and approved of by the Lieutenant Governor in Council, by-laws may be passed by the councils of all municipalities to prohibit the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen. Prohibition of sale of gas containing sulphuretted hydrogen

(2) If a company contravenes the provisions of any such by-law or after the passing of such by-law neglects or refuses to furnish a supply, sufficient for all public and private uses, of gas not containing sulphuretted hydrogen, any right, privilege or franchise that it possesses for the sale or distribution of natural or manufactured gas within the municipality *ipso facto* comes to an end and be determined. R.S.O. 1950, c. 320, s. 67 (1, 2). Forfeiture of franchise for contravention of by-law

(3) The corporation may apply to the Ontario Energy Board for a declaration that the company has contravened the provisions of the by-law, or that, after the passing of the by-law, it has neglected or refused to supply gas not containing sulphuretted hydrogen, as provided by subsection 2, and the Board on proof to its satisfaction that the company has done so may make the declaration, and the fact of such contravention or neglect or refusal is thereby conclusively established. R.S.O. 1950, c. 320, s. 67 (3); 1954, c. 81, s. 1 (1). Application to Ontario Energy Board for declaration as to contravention

(4) After the passing of the by-law, the corporation also has the right to bring and maintain an action to restrain the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen. R.S.O. 1950, c. 320, s. 67 (4). Right of action to restrain sale

Removal of  
mains, pipes

(5) Upon application by a municipal corporation to the Ontario Energy Board and upon proof of the sale or distribution of natural or manufactured gas containing sulphuretted hydrogen within the municipality after the passing of a by-law prohibiting the same, an order shall be made for the removal by the company so selling or distributing, of its conduits, mains, pipes and works from the municipality, but not including those used only for the purpose of transportation through the municipality to another municipality, and in default of such removal within the time limited by the order, then for the removal thereof by the corporation at the expense of the company. R.S.O. 1950, c. 320, s. 67 (5); 1954, c. 81, s. 1 (2).

Restoration  
of condition  
of highways

(6) Upon such removal, the company shall restore the highways to as good a condition as they were in prior to the removal and in default thereof within the time limited by the order of the Ontario Energy Board, the corporation may do so at the expense of the company, and the expense incurred by the corporation in such removal and restoration is recoverable in a court of competent jurisdiction. R.S.O. 1950, c. 320, s. 67 (6); 1954, c. 81, s. 1 (3).

Application  
of section

(7) This section applies to every company incorporated before or after the passing of this section and whether by special or general Act.

No action  
for forfeiture  
of franchise

(8) No action lies or is maintainable by a company against any municipal corporation for or by reason or on account of the forfeiture under this section of any right, privilege or franchise of the company in the municipality. R.S.O. 1950, c. 320, s. 67 (7, 8).

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## CHAPTER 336

## The Public Utilities Corporations Act

1. In this Act, "public utility" means any water works, gas works, electric heat, light or power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessities or conveniences. R.S.O. 1950, c. 321, s. 2.

2.—(1) Where the undertaking of a company operating a public utility incorporated under a general or special Act of the Legislature has been, since the 19th day of February, 1907, or hereafter is declared by the Parliament of Canada to be a work for the general advantage of Canada, or absorbed by or amalgamated with or controlled or operated by any other company whose undertaking is or has been declared a work for the general advantage of Canada, or which is not subject to the legislative control of Ontario, the Lieutenant Governor in Council may declare that all or any of the powers, rights, privileges and franchises conferred upon the first-mentioned company by letters patent or by any general or special Act of the Legislature shall be forfeited and thereupon all such powers, rights, privileges and franchises so declared to be forfeited cease and determine, and every municipal by-law passed and every agreement entered into with any municipal corporation authorizing the company to carry on business or granting to it any right, privilege or franchise also thereupon becomes void and is of no effect, and the company forfeits all claim to any bonus or other aid granted by any municipal corporation or by the Legislature.

(2) Nothing in this section affects the validity of any debenture issued by a municipal corporation for payment of any such bonus in the hands of a *bona fide* holder for valuable consideration, nor the claim of any *bona fide* creditor of the company. R.S.O. 1950, c. 321, s. 2.

3.—(1) Notwithstanding anything in any Act, a municipal corporation shall not enter into any agreement with any such company or pass any by-law in relation to any public utility that has been declared to be a work for the general advantage of Canada, or which is not within the legislative control of Ontario, until the Lieutenant Governor in Council has approved of the agreement or by-law, and every agreement

entered into and by-law passed in contravention of this section is void and of no effect.

Idem

(2) The Lieutenant Governor in Council may, from time to time, in advance of such agreements or by-laws, approve of any class or description of such agreements or by-laws in regard to any corporation named in the Order in Council. R.S.O. 1950, c. 321, s. 3.

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## CHAPTER 337

**The Public Vehicles Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Highway Transport Board;
- (b) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- (c) "Department" means the Department of Transport;
- (d) "highway" means a highway as defined in *The Highway Traffic Act*; R.S.O. 1960, c. 172
- (e) "Minister" means the Minister of Transport;
- (f) "operating licence" means a public vehicle operating licence issued under this Act;
- (g) "public vehicle" means a motor vehicle operated on a highway by, for or on behalf of any person for the transportation for compensation of passengers, or passengers and express freight that might be carried in a passenger vehicle, but does not include the cars of electric or steam railways running only upon rails, taxicabs, nor motor vehicles operated solely within the corporate limits of one urban municipality;
- (h) "regulations" means the regulations made under this Act;
- (i) "taxicab" means a motor vehicle as defined in *The Highway Traffic Act*, having a seating capacity of not more than six persons, exclusive of the driver, hired for one specific trip for the transportation exclusively of one person or group of persons, one fare or charge only being collected or made for the trip;
- (j) "toll" means any fee or rate charged, levied or collected by any person for the carriage of passengers and express freight by a public vehicle;
- (k) "vehicle licence" means a public vehicle licence issued under this Act. R.S.O. 1950, c. 322, s. 1; 1955, c. 54, s. 25 (2); 1958, c. 92, s. 1.

Operating  
licence  
required

**2.**—(1) Notwithstanding the provisions of any private Act, no person shall operate a public vehicle,

(a) except under an operating licence; or

(b) in contravention of the terms and conditions of the operating licence. 1957, c. 104, s. 1.

Vehicle  
licence  
required

(2) Notwithstanding the provisions of any private Act, no person shall operate a public vehicle unless the vehicle is licensed as a public vehicle under this Act. R.S.O. 1950, c. 322, s. 2 (2).

Advertising  
by unlicensed  
persons

(3) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of passengers by means of a vehicle operated on a highway by, for or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for or on behalf of whom the vehicle is operated is licensed under this Act to perform the transportation that is the object of such advertising or undertaking. R.S.O. 1950, c. 322, s. 2 (3); 1958, c. 92, s. 2.

Approval  
of Board

**3.**—(1) No operating licence shall be issued without the approval of the Board being first obtained as evidenced by the Board's certificate of public necessity and convenience furnished to the Minister, and then only in accordance with the certificate.

Renewal  
of licence

(2) The approval of the Board to a renewal of a licence is not required unless the Minister refers the application for renewal to the Board.

Transfer  
of licence

(3) The Minister may refer any application for the transfer of an operating licence to the Board.

Alteration  
of licence

(4) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed. R.S.O. 1950, c. 322, s. 3 (1-4).

Powers of  
Board

(5) On any application or reference to the Board, the Board has and may exercise all powers necessary for the purposes of this Act, and may give or refuse such certificate and make such order as it deems just. R.S.O. 1950, c. 322, s. 3 (5), 1957, c. 104, s. 2.

Issue or  
transfer  
of shares  
of corpora-  
tion

**4.** The Minister may in his discretion require the directors of a corporation that is the holder of an operating licence to present to the Board for approval any issue or transfer of shares of its capital stock and, where in the opinion of the Board a substantial interest is issued or transferred, such issue or

transfer shall be deemed to constitute a transfer of all operating licences held by such corporation. 1958, c. 92, s. 3.

**5.** Operating and vehicle licences shall be issued by the Minister and are subject to the regulations and the terms and conditions in the licence. R.S.O. 1950, c. 322, s. 4. Issue of licences

**6.** An operating licence may confer special, exclusive or limited rights with respect to the operation of public vehicles and with respect to any highway or highways or portions thereof described in the licence. R.S.O. 1950, c. 322, s. 5. Special rights

**7.—(1)** A vehicle licence may fix the number of passengers or tonnage of express freight, or both, that the vehicle may carry, and subject to subsection 1 of section 16 no vehicle shall at any time carry more passengers or more tonnage than is fixed by the licence. Number of passengers and tonnage of freight

(2) Every public vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous position a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year. R.S.O. 1950, c. 322, s. 6. Licence plate to be plainly exposed

**8.—(1)** Subject to subsections 2 and 3, a person holding an operating licence may operate his vehicle in and through any municipality covered by the licence without holding a licence or complying with the rates or fares prescribed under any by-law of any such municipality. Municipal licence and fares, when not applicable

(2) Where such a person takes on passengers or express freight within the limits of an urban municipality and discharges such passengers or express freight within the limits of that municipality, he may be required to obtain a licence under a by-law of that municipality and shall, as to such passengers and express freight, comply with any tariff of fares or rates established by by-law of that municipality. when applicable

(3) The council of any such municipality may, with the approval of the Minister, designate by by-law the streets within the municipality over which the person holding the licence may operate his vehicle. R.S.O. 1950, c. 322, s. 7. Designation of streets

**9.** The council of any city may pass a by-law requiring a person holding an operating licence who operates a public vehicle over a route partly within and partly without the limits of the city to pay to the city a fee or charge not being in the nature of a licence fee, and the by-law shall not come into effect until approved by the Minister who shall fix the fee to be charged. R.S.O. 1950, c. 322, s. 8. Payment of annual charge to city

## Tolls

**10.**—(1) No tolls shall be charged until a tariff thereof has been filed with and approved by the Minister, nor shall any tolls be charged under any tariff or portion thereof not approved by the Minister.

Tariffs  
subject to  
revision by  
Minister

(2) A tariff of tolls approved by the Minister is subject to revision by the Minister at any time, and no tolls shall thereafter be charged except in accordance with the revised tariff. R.S.O. 1950, c. 322, s. 9.

Cancellation  
and  
suspension  
of licences  
R.S.O. 1960,  
c. 172

**11.** The Minister may at any time cancel or suspend any licence by reason of a breach of this Act or *The Highway Traffic Act* or of the regulations hereunder or thereunder, or for any reason set out in the regulations. R.S.O. 1950, c. 322, s. 10.

Transfer  
of licences

**12.** No operating licence shall be transferred except with the written approval of the Minister. R.S.O. 1950, c. 322, s. 11.

Prohibition  
as to  
drinking

**13.** No driver or operator of a public vehicle carrying passengers shall drink any intoxicating liquor during the time he is on duty, or at any time use intoxicating liquor to excess. R.S.O. 1950, c. 322, s. 12.

## Smoking

**14.** No driver or operator of a public vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance while driving the vehicle. R.S.O. 1950, c. 322, s. 13.

Right of  
person to be  
transported

**15.** Subject to the conditions of the operating licence, no driver or operator of any public vehicle shall refuse to carry any person offering himself at any regular stopping place for carriage and who tenders the regular fare to any regular stopping place on the route of the vehicle or between the termini thereof, unless at the time of such offer the seats of the vehicle are fully occupied, but the driver or operator of a public vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane or obscene language. R.S.O. 1950, c. 322, s. 14.

Passengers  
not to be  
allowed on  
running  
board, etc.

**16.**—(1) No driver or operator shall allow passengers to ride on the running boards, fenders or any part of a public vehicle other than the seats thereof, except that a vehicle may carry as standing passengers in the aisles thereof not more than one-third the number of persons for which seats are provided.

Restrictions  
as to  
seating

(2) No driver or operator of a public vehicle shall permit or allow on the front seat of the vehicle more passengers than the seat is designed to carry, exclusive of the driver, or permit or allow any passenger to occupy any other portion of the vehicle forward of the back of the driver's seat.

(3) No passenger shall be allowed to sit on the front seat <sup>Beside driver</sup> to the left of the driver of a left-hand drive motor vehicle, or to the right of the driver of a right-hand drive motor vehicle. R.S.O. 1950, c. 322, s. 15.

**17.** Except when specially authorized by the Minister, no person shall operate a public vehicle with any trailer or other vehicle attached thereto, but where a vehicle becomes disabled on a trip and is unable to proceed on its own power, the vehicle may be towed to the nearest point where repair facilities are available. R.S.O. 1950, c. 322, s. 16. <sup>Trailers prohibited</sup>

**18.** A public vehicle shall not carry or transport any luggage, baggage, package, trunk, crate or other load that extends beyond the running board of the vehicle. R.S.O. 1950, c. 322, s. 17. <sup>Luggage</sup>

**19.—(1)** Every public vehicle shall have at least two doors <sup>Exits</sup> or exits, one of which, to be used only in an emergency, shall be at the rear of the vehicle or near the rear on the left side of the vehicle. R.S.O. 1950, c. 322, s. 18.

(2) The Lieutenant Governor in Council may make regulations prescribing exits to be used only in an emergency in lieu of those required in subsection 1. 1959, c. 85, s. 1. <sup>Regulations</sup>

**20.** Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. R.S.O. 1950, c. 322, s. 19. <sup>Insurance</sup>

**21.—(1)** Every insurer who has issued a policy of insurance in accordance with section 20 shall issue a certificate thereof which shall be filed with the Minister. <sup>Certificate of insurance</sup>

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate. <sup>Effect of certificate</sup>

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy, for which a certificate has been issued, at least thirty days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy remains in full force and effect. R.S.O. 1950, c. 322, s. 20. <sup>Notice of cancellation or expiry of insurance</sup>

**22.** A bond issued in accordance with section 20 shall not be cancelled or expire except after thirty days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. R.S.O. 1950, c. 322, s. 21. <sup>Cancellation or expiry of bond</sup>

## Offences

**23.**—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$200.

## Disposition of penalties

(2) Every fine so imposed shall be paid over to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 322, s. 22.

## Consent to prosecutions

**24.** No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Department designated by the Minister to assist in the enforcement of this Act. R.S.O. 1950, c. 322, s. 23.

## Regulations

**25.** The Lieutenant Governor in Council may make regulations,

- (a) governing the issue, renewal, transfer, suspension and cancellation of licences;
- (b) prescribing fees and the basis for computing fees, and respecting payment thereof;
- (c) prescribing terms and conditions to which licences shall be subject;
- (d) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons licensed under this Act;
- (e) prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;
- (f) governing the filing of bonds and certificates of insurance;
- (g) respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;
- (h) providing for the examination of public vehicles, their contents and equipment by officers of the Department and members of the Ontario Provincial Police Force;
- (i) prescribing, regulating and limiting the hours of labour of drivers of public vehicles;
- (j) prescribing the qualifications of drivers of public vehicles;
- (k) prescribing the condition in which public vehicles shall be kept, and prescribing the equipment to be



carried by public vehicles and the condition and location in which the equipment shall be kept;

- (*l*) defining chartered trips, special trips and school buses and prescribing special terms and conditions with respect to such trips and buses;
  - (*m*) providing for the delegation to an officer of the Department of such of the powers and duties of the Minister as may be deemed necessary;
  - (*n*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1950, c. 322, s. 24.
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## CHAPTER 338

**The Public Works Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "conveyance" includes a surrender to the Crown;
- (c) "Department" means the Department of Public Works;
- (d) "judge" means the judge of the county or district court of the county or district in which the land or property or any part thereof entered upon, taken or appropriated under this Act is situate, or a judge of the High Court;
- (e) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (f) "lease" includes an agreement for a lease;
- (g) "Minister" means the Minister of Public Works;
- (h) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (i) "public work" means the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the telegraph lines, government railways, canals, locks, drydocks, and all other property belonging to Ontario, and includes all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of Ontario, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by the Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only;

- (j) "registry office" includes land titles office and means the registry or land titles office for the registry division or locality in which the land is situate;
- (k) "superintendent" means the superintendent of the public work of which he has, under the Minister, the charge and direction;
- (l) "surrender" includes a conveyance to the Crown, or to the Minister, or to any officer of the Department, in trust for or to the use of the Crown. R.S.O. 1950, c. 323, s. 1.

Function of  
Minister

**2.** The Minister shall preside over and have charge of the Department. R.S.O. 1950, c. 323, s. 2.

Deputy  
Minister

**3.** A Deputy Minister of Public Works shall be appointed by the Lieutenant Governor in Council who shall perform such duties as are assigned to him by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 323, s. 3.

Other  
officers  
and  
servants

**4.** The Lieutenant Governor in Council may appoint an architect, an engineer, a secretary, a solicitor, an accountant, and as many other officers and servants as from time to time are deemed necessary for the proper conduct of the business of the Department and for the construction, maintenance, use and repair of public works and all property real and personal connected therewith or under its control, and all such officers and servants have such powers and shall perform such duties as are assigned to them by the Lieutenant Governor in Council or by the Minister. R.S.O. 1950, c. 323, s. 4.

Require-  
ments as to  
contracts

**5.—(1)** The Minister may enter into any contract or agreement that he deems advisable in carrying out this Act, but no contract or agreement is binding upon the Crown or shall be deemed to be the act of the Minister unless it is signed by him and sealed with the seal of the Department.

Tenders for  
public  
works

**(2)** The Minister shall, by public advertisement, invite tenders for the construction or repair of all public works, except in cases of pressing emergency where delay would be injurious to the public interest or where from the nature of the work it can be more expeditiously or economically executed by the officers and servants of the Department or by day labour.

Security  
from  
contractors

**(3)** Where a public work is being carried out by contract, the Minister shall take reasonable care that security be given to and in the name of Her Majesty for the due performance of the work within the amount and time specified for its completion, and in all cases where the Minister deems it inex-

pedient to let the work to the lowest bidder, he shall report the same and obtain the authority of the Lieutenant Governor in Council before passing by a lower tender, but no sum of money shall be paid to a contractor, nor shall any work be commenced on a contract until the contract has been signed by all the parties thereto, nor until the requisite security has been given.

(4) The Minister may require any account sent in by any person employed by the Department to be attested on oath. Attestation of accounts

(5) The Minister may send for and examine on oath all such persons as he deems necessary touching any matter upon which his action is or may be required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, and every such person shall attend at the summons of the Minister after due notice and in default is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. Power to hold inquiry on oath

(6) The Minister shall submit to the Lieutenant Governor an annual report of all the works under the control of the Department, showing the state of each work, the amounts expended in respect thereof, and such further information as is requisite to enable the Assembly to judge of the work of the Department. Annual report of Minister

(7) Such report shall be laid before the Assembly within twenty-one days after the commencement of the next session. Presentation  
R.S.O. 1950, c. 323, s. 5.

6. Where a payment is to be made by the Minister under this Act, it shall be made out of the money appropriated by the Legislature for that purpose, and not otherwise, and the Minister is not personally liable therefor or for any proceedings had or taken by virtue of this Act. R.S.O. 1950, c. 323, s. 6. Payments under this Act

7. All public works constructed or completed at the expense of Ontario, all land, streams, watercourses and property, real or personal, acquired for the use of public works, and What property, etc., to be under control of Department

- (a) all canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water;
- (b) all slides, dams, piers, booms and other works for facilitating the transmission of timber;
- (c) all hydraulic powers created by the construction of any public works;

- (d) all roads and bridges, all public buildings, all railways and rolling stock thereon, all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation, all drains and drainage works and all property acquired, constructed, repaired, equipped, maintained or improved at the expense of Ontario,

not under the control of the Government of Canada, unless otherwise provided by law, are vested in the Crown and under the control of the Department. R.S.O. 1950, c. 323, s. 7.

Disposal  
of real  
property

**8.**—(1) Any real property no longer required for the purposes of a public work may be leased for any term by the Minister or may be sold or otherwise disposed of under the authority of the Lieutenant Governor in Council.

Disposal  
of personal  
property

(2) Any personal property no longer required for the purposes of a public work may be sold or otherwise disposed of by the Minister. 1957, c. 105, s. 1.

Enforcement  
of contract

**9.** Contracts respecting any public works or property, real or personal, under the control of the Department, entered into by the Minister, or by any other person duly authorized to enter into the same, enure to the benefit of the Crown and may be enforced as if entered into with the Crown under this Act. R.S.O. 1950, c. 323, s. 9.

Who may  
bring  
action

**10.** All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of the Attorney General. R.S.O. 1950, c. 323, s. 10.

Possession of  
maps, etc.,  
relating to  
public  
works

**11.** The Minister may require any person having the possession of any map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to a public work, and not being private property, to deliver the same without delay to the Department. R.S.O. 1950, c. 323, s. 11.

Power to  
enter on  
and use  
land

**12.** The Minister may himself, or by his engineers, superintendents, agents, workmen or servants, for any purpose relative to the use, construction, maintenance or repair of a public work or for obtaining better access thereto and without the consent of the owner,

- (a) enter into and upon any land to whomsoever belonging, and survey and take levels of the land, and

make such borings, or sink such trial pits as he deems necessary;

- (b) enter upon, take and use any land, stream, water or watercourse;
- (c) enter with workmen, carts, carriages and horses, upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land, or for the purpose of digging up, quarrying and carrying away earth, stone, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom;
- (d) make and use all such temporary roads to and from such timber, stone, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the work during its construction or repair;
- (e) alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, railway, road, street, or way, or raise or sink the level of the same in order to carry them over or under, on the level of or by the side of the public work, as he thinks proper; but before discontinuing or altering any public road or any part thereof, he shall substitute another convenient railway or road in lieu thereof, and the land theretofore used for the railway or road, or part of a railway or road so discontinued belongs to the Crown and may be disposed of as to the Minister seems proper; and
- (f) divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric wire or pole. R.S.O. 1950, c. 323, s. 12.

**13.** The Minister may for and in the name of Her Majesty purchase or acquire and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land that he deems necessary for, <sup>Power to acquire land</sup>

- (a) the public purposes of Ontario; or
- (b) the use or purposes of any department of the Government thereof. R.S.O. 1950, c. 323, s. 13.

**14.** Where it is deemed necessary in the building, maintaining or repairing of a public work to take down or remove any wall or fence of any owner of land adjoining the public <sup>Restoration and maintenance of walls, fence</sup>

work or to construct any ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity that caused its taking down or removal has ceased, and, after such wall or fence has been so replaced or when such ditch or drain is completed, the owner shall maintain such wall or fence, ditch or drain to the same extent as he might be by law required to do, if such wall or fence had not been so taken down or removed or such ditch or drain had always existed. R.S.O. 1950, c. 323, s. 14.

Sidings  
water pipes  
and tracks

**15.**—(1) Where any gravel, stone, earth, sand or water is taken at a distance from the public work, the Minister may lay down all necessary sidings, water pipes or conduits, or tracks in, over or upon any land intervening between the public work and the land on which such material or water is found, whatever the distance may be, and all the provisions of this Act, except such as relate to the filing of plans and descriptions, apply to obtaining the right of way from the public work to the land on which the materials are situate, and such right may be acquired for a term of years, or permanently, as the Minister thinks proper.

Powers as to  
repair and  
maintenance

(2) The powers conferred by this section may be exercised after the public work is constructed for the purpose of repairing and maintaining it. R.S.O. 1950, c. 323, s. 15.

Power to  
employ  
surveyor or  
engineer

**16.**—(1) The Minister may employ an Ontario land surveyor or an engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by the Crown for a public work.

Establishing  
boundaries

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer.

Effect

(3) Such surveys, boundaries, plans and descriptions made, established or furnished by an engineer have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and the boundaries had been established and the monuments planted by an Ontario land surveyor.

Confirma-  
tion

(4) Such boundaries shall be held to be the true and unalterable boundaries of the property,

(a) if they are so established, and the monuments of iron or stone so planted, after due notice of the intention to establish and plant them has been given in writing to the proprietors of the land thereby affected; and



- (b) if a written description of the boundaries is approved and signed in the presence of two witnesses by the surveyor or engineer on behalf of the Minister and by the person concerned; or, in case of the refusal of a proprietor to approve or to sign the description, the refusal is recorded in the description; and
  - (c) if the boundary marks or monuments are planted in the presence of at least one witness who signs the description.
- (5) It is not incumbent on the Minister or those acting for him to have boundaries established with the formalities mentioned in this section, but it may be resorted to whenever the Minister deems it necessary. R.S.O. 1950, c. 323, s. 16. Discretion of Minister

**17.—**(1) Where the Minister desires to expropriate land under the power conferred by this Act, he shall deposit in the proper registry office a plan and description of the land signed by himself or by the deputy minister or by the secretary of the Department, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, and the land thereupon vests in the Crown. Expropriation, plans and descriptions to be deposited in registry office

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, vests in the Crown. Where land temporarily required, etc.

(3) In case of any omission, misstatement or erroneous description in any plan and description, a correct plan and description may be deposited with like effect. Correcting plans and descriptions

(4) A plan and description of any land at any time in the occupation or possession of the Crown and used for the purposes of a public work may be deposited at any time in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein. Plans and descriptions of land occupied by the Crown

(5) In all cases when any such plan and description purporting to be signed by the deputy minister or by the superintendent of the public work or by an engineer of the Department, or by an Ontario land surveyor is so deposited, it shall be deemed to have been deposited by the direction and authority of the Minister and as indicating that in his judgment the land therein described is necessary for the purposes of the public work, and the plan and description shall not be Verification of plans and descriptions

called in question except by the Minister or by some person acting for him or for the Crown. R.S.O. 1950, c. 323, s. 17.

Where land  
of Crown  
is taken

**18.** Where land appropriated for a public work is Crown land under the control of the Government of Ontario, a plan of such land shall be deposited with the Department of Lands and Forests. R.S.O. 1950, c. 323, s. 18.

Contracts by  
tenants in  
tail, execu-  
tors and  
others

**19.**—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, mental incompetents, mental defectives, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown, and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under this Act.

Representa-  
tion of  
person  
under  
disability

(2) Where there is no guardian or other person to represent a person under disability, the judge may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1 the person under disability. R.S.O. 1950, c. 323, s. 19.

Warrant for  
possession

**20.**—(1) If any resistance or opposition is made by any person to the Minister, or to any person acting for him, entering upon and taking possession of the land or exercising any power in respect thereof, the judge may, on proof of the execution of a conveyance of the land to the Crown, or agreement therefor, or of the depositing in the proper registry office of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county or district in which the land is situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof, or take such steps as may be necessary to enable him to exercise such power.

Duty and  
powers of  
sheriff

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof, and shall forthwith make return to the court of such warrant, and of the manner in which he executed it. R.S.O. 1950, c. 323, s. 20.

**21.** The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act due compensation for any damages necessarily resulting from the exercise of such powers, beyond any advantage that the owner may derive from the contemplated work, and any claim for such compensation not mutually agreed upon shall be determined as hereinafter provided. R.S.O. 1950, c. 323, s. 21.

**22.** Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this Act, the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

- (a) if the owner is known and his residence is known, by serving upon or by sending by registered mail addressed to him at his last known place of residence a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description and stating that every person having any claim to compensation must file the claim in the office of the Minister within six months after such registration, or, in the case of land injuriously affected, within six months after the injury complained of, or, in the case of a continuing injury, within one year from the time when the injury began or became known to him; or
- (b) if the owner is unknown or his residence is unknown, by the publication of a similar notice once a week for at least three weeks in a newspaper having general circulation in the county or district in which the land affected is situate. R.S.O. 1950, c. 323, s. 22.

**23.** Where the Minister has exercised any of the compulsory powers conferred by this Act other than the power to expropriate land, he shall, within sixty days after the exercise of such power, give notice similar to and in like manner as is provided for in section 22 and the provisions of section 26 as to claims to and for the determination of the compensation apply. R.S.O. 1950, c. 323, s. 23.

**24.** Where the notice provided for by section 22 or 23 has been given, no claim of any kind for compensation in respect of land taken, used or injuriously affected in the exercise of the powers conferred by this Act shall be referred for determination under this Act unless the claim and the particulars

thereof have been filed in the office of the Minister, in the case of land taken, within six months after the registration of the plan, or, in the case of land injuriously affected, within six months after the injury complained of, or, in the case of a continuing injury, within one year from the time when the injury began or became known to the claimant. R.S.O. 1950, c. 323, s. 24.

Power to  
take whole  
lot when  
part only  
required

**25.** If the Minister is of opinion that he can obtain the whole of a lot or parcel of land of which a part may be expropriated by him at a more reasonable price or to greater advantage than by acquiring part only, he may expropriate the whole of the lot or parcel and also any right of way thereto if the right of way is separated from the public work, and may afterwards sell and convey the land or right of way or any part thereof as he deems expedient. R.S.O. 1950, c. 323, s. 25.

Notice to  
determine  
amount of  
compensa-  
tion

**26.** The Minister and the owner may agree upon the amount of the compensation, or either party may give notice in writing to the other that he requires the amount of the compensation to be determined by arbitration under this Act. R.S.O. 1950, c. 323, s. 26.

Appoint-  
ment before  
judge

**27.** Subject to section 24, the judge, upon application of the Minister or of the owner, may appoint in writing a time and place at which he will determine the amount of the compensation and may give such directions for the service of the appointment and as to the persons to be served as he deems proper. R.S.O. 1950, c. 323, s. 27.

Appoint-  
ment before  
Ontario  
Municipal  
Board

**28.** Where the Minister gives notice to the owner either before or after the service of the appointment upon him that he desires the compensation to be determined by the Board instead of by the judge, the chairman of the Board shall give the appointment upon the like application and has power to give like directions as the judge might have given under section 27 and the proceedings shall thereafter be taken before the Board. R.S.O. 1950, c. 323, s. 28.

Proceedings  
before  
judge  
R.S.O. 1960,  
c. 18

**29.** Except as otherwise provided by this Act, *The Arbitrations Act* applies to the proceedings taken under this Act before the judge. R.S.O. 1950, c. 323, s. 29.

Proceedings  
before  
Board  
R.S.O. 1960,  
c. 274

**30.** *The Ontario Municipal Board Act* applies to proceedings taken before the Board under this Act. R.S.O. 1950, c. 323, s. 30.

Appeal to  
Court of  
Appeal

**31.—(1)** Where the amount of the claim exceeds \$500, the Minister or the claimant may by leave of the Court of

Appeal, appeal to that court from any determination or order of the judge or of the Board under this Act as to compensation.

(2) The leave may be granted on such terms as to the <sup>Terms</sup> appellant giving security for costs and otherwise as the court deems just.

(3) The practice and procedure as to the appeal and incidental thereto shall be the same *mutatis mutandis* as upon an appeal from a county court. <sup>Procedure</sup>

(4) The decision of the Court of Appeal is final. <sup>Finality</sup>

(5) Section 95 of *The Ontario Municipal Board Act* does <sup>R.S.O. 1960, c. 274, s. 95,</sup> not apply to an appeal under this section. <sup>R.S.O. 1950, c. 323,</sup> not to apply s. 31.

**32.** The compensation agreed upon or adjudged for any <sup>Character of</sup> land or property acquired, taken, or used in or injuriously <sup>compensation</sup> affected by the exercise of any of the powers conferred by this Act stands in the stead of the land or property, and any claim to or encumbrance thereon is, as respects the Crown, converted into a claim to or upon the compensation, and no longer affects the land or property so acquired, taken or used. R.S.O. 1950, c. 323, s. 32.

**33.—**(1) Where at any time before the compensation has <sup>Right of</sup> been actually ascertained or determined land taken for a <sup>Crown to</sup> public work or any part thereof is found to be unnecessary <sup>abandon</sup> for the purposes of such public work, or if it is found that a <sup>land taken</sup> more limited estate or interest therein only is required, the Minister may, by writing under his hand, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the Crown, or that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon,

- (a) the land declared to be abandoned reverts in the person from whom it was taken or in those entitled to claim under him; or
- (b) in the event of a limited estate or interest therein being retained by the Crown, the land so reverts subject to the estate or interest so retained.

(2) Where part only of the land or all of it but a limited <sup>Effect upon</sup> estate or interest therein is abandoned, the fact of such <sup>compensation</sup> abandonment, and the damage, if any, sustained in consequence of that which is abandoned having been taken and all the other circumstances of the case shall be taken into account in determining the amount to be paid to a person claiming compensation.

Damages  
where  
abandon-  
ment  
complete

(3) Where the whole of the land taken is abandoned, the person from whom it was taken is entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and the amount of the damages shall be determined in the manner provided by this Act, and, if a reference as to compensation is pending, shall be determined on such reference. R.S.O. 1950, c. 323, s. 33.

Payment of  
compensa-  
tion up to  
\$100

**34.** If the compensation agreed upon or adjudged does not exceed \$100, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to the compensation as against the person receiving it. R.S.O. 1950, c. 323, s. 34.

Payment of  
compensa-  
tion into  
Court

**35.—(1)** In the cases provided for in section 19, the Minister shall, and, in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at 5 per cent for six months.

Proceedings  
after pay-  
ment into  
Court

(2) A notice in such form and for such a time as a judge of the High Court directs shall be published in such newspaper as the judge orders, stating that the land is purchased, acquired or taken by the Crown under this Act and calling upon all persons entitled to the land or to a part thereof to file their claims to the compensation or a part thereof, and all such claims shall be adjudicated upon by the judge, and the judge shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice and to law appertains.

Adjustment

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into Court, the judge may direct a proportionate part of the interest to be returned to the Minister, and, if it is not obtained until after six months have expired, the judge may order the Minister to pay interest for such further period as is deemed just.

Representa-  
tion of  
parties

(4) Where unborn issue or an unascertained person or class are interested in the compensation, the judge may appoint such person as is deemed proper to represent or act for them, and any order made is binding on them. R.S.O. 1950, c. 323, s. 35.

Power of  
Minister to  
require  
particulars

**36.** Every person who has an estate or interest in land or property acquired, taken or used in or injuriously affected by the exercise of any of the powers conferred by this Act, or who represents any such person, shall, upon demand made

therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate or interest and of every charge, lien or encumbrance to which it is subject, and of the claim made by such person in respect of it. R.S.O. 1950, c. 323, s. 36.

**37.** If the injury to any land or property alleged to be injuriously affected by the exercise of any of the powers conferred by this Act may be removed wholly or in part by any alteration in, or addition to, any public work, or by the construction of any additional work, or by the abandonment of any part of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown before an award is made undertakes to make such alteration or addition, or to construct such additional work or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be determined in view of such undertaking, and the judge or the Board, as the case may be, shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or such part of the land abandoned, or such grant made to him. R.S.O. 1950, c. 323, s. 37.

When  
reparation  
by Crown  
may be  
ordered

**38.—**(1) Interest at the rate of 5 per cent per annum may be allowed on the compensation from the time when the land or property was taken, used or injuriously affected, but no person to whom a sum equal to or greater than the compensation has been offered in writing shall be allowed interest thereon for any time subsequent to the date of the offer.

Interest on  
compensa-  
tion money

(2) If the judge or the Board is of opinion that the delay in determining the compensation is attributable wholly or in part to any person entitled to the compensation or any part of it, or that he has not, upon demand, furnished to the Minister within a reasonable time a true statement of the particulars of his claim, the judge or the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per annum as appears just. R.S.O. 1950, c. 323, s. 38.

When  
interest  
may be  
withheld

**39.—**(1) If a person has a claim arising out of or connected with the execution or fulfilment or in respect of deductions made for the non-execution or non-fulfilment of a contract for the execution of a public work entered into with the Minister, either in the name of Her Majesty or in any other manner, the person may give notice in writing of his claim to the Minister stating the particulars thereof and how the claim has arisen.

Claims  
arising  
under  
contracts  
may be  
made

Claims may  
be referred  
to Board

(2) The claim may be referred by the Minister to the Board for determination under this Act, but no claim shall be referred or be entertained unless within six months from the date of the completion of the contract or from the date of the last payment, made on account thereof, full particulars of the claim have been filed with the secretary of the Department.

When  
reference  
not allowed

(3) No claim shall be so referred where by the terms of the contract the determination of any matters of difference arising out of or connected with the contract are to be decided by the Minister or by a person named in the contract. R.S.O. 1950, c. 323, s. 39.

Payment of  
compensa-  
tion or  
costs.

**40.** The Treasurer of Ontario may pay to any person out of the Consolidated Revenue Fund any sum to which he is entitled as compensation or for costs under this Act. R.S.O. 1950, c. 323, s. 40.

Interest and  
powers of  
the Crown

**41.**—(1) All lands, streams, watercourses and property acquired for any public work are vested in the Crown and, when not required for the public work, may be sold, leased or otherwise disposed of under the authority of the Lieutenant Governor in Council.

Hydraulic  
powers

(2) All hydraulic powers created by the construction of a public work or by the expenditure of public money thereon are vested in the Crown, and any part not required for the public work may be sold, leased or otherwise disposed of under the authority of the Lieutenant Governor in Council. R.S.O. 1950, c. 323, s. 41.

Power to  
employ  
engineers,  
etc., to  
examine  
land for  
drainage,  
etc.

**42.** The Minister may employ engineers and surveyors to make examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and the engineers and surveyors shall be under the direction of the Department and shall report to the Minister on the best means of draining or preventing the flooding of the land, the cost of the land, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. R.S.O. 1950, c. 323, s. 42.

Report  
of results

**43.** The Minister shall submit to the Lieutenant Governor in his annual report to be laid before the Assembly a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands so as to render them available for cultivation, with his recommendation respecting the same. R.S.O. 1950, c. 323, s. 43.

Power to  
make  
certain  
contracts

**44.** The Minister may make contracts in the manner hereinbefore prescribed for the construction and repair of



drains, bridges, roads, dams, dykes, slides and other works that he deems necessary or proper to prevent the flooding of, or to carry off the water from, any such land, and to render the land available for cultivation. R.S.O. 1950, c. 323, s. 44.

**45.**—(1) Where it has been ascertained on the report of an engineer that there exists, or is being or has been constructed, across a river, stream, or watercourse, any mill-dam, embankment or obstruction that impedes, or that, in the opinion of the engineer, will impede the free discharge of the water from such swamp, bog or flooded land, the Minister may stop its construction, or cause it to be removed, or a slide to be constructed, as in his opinion is most advisable, and if the owner of the mill-dam, embankment or obstruction, or any other person suffers damage in consequence of the stopping of its construction, or of its removal, or of the construction of a slide under this section, he is entitled to compensation to be agreed upon or determined under this Act, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam, embankment or obstruction, and the compensation shall be paid within six months after it has been agreed on or determined.

Power to remove obstructions on report of engineer

(2) Every such slide shall be under the control of the Department, and the Minister, his engineers and agents, are entitled to free access to the slide at all reasonable times, and for all reasonable purposes, including the regulating of the discharge of water over the slide, and its repair. R.S.O. 1950, c. 323, s. 45.

Control of slides

**46.** Nothing in this Act authorizes the Minister to incur any expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service demand. R.S.O. 1950, c. 323, s. 46.

Saving authority of Legislature

**47.** *The Ontario Drainage Act*, being Chapter 36 of the Revised Statutes of Ontario, 1887, does not apply to expenditure under sections 42 to 45 upon lands in a provisional judicial district. R.S.O. 1950, c. 323, s. 47.

R.S.O. 1887, c. 36, does not apply to certain expenditure

**48.** This Act applies to public works constructed, operated or maintained by a commission appointed by or under the authority of the Legislature or to any such commission, and the like powers and duties as are by this Act imposed or conferred upon the Minister may be exercised and shall be performed by such commission in respect of matters entrusted to it, and in the application of this Act thereto where the word "Minister" or the word "Department" occurs, it means such commission. R.S.O. 1950, c. 323, s. 48.

Application of Act to commission appointed by Legislature



## CHAPTER 339

**The Public Works Protection Act****1. In this Act,**Interpre-  
tation

- (a) "guard" means a guard appointed under this Act;
- (b) "highway" means a common or public highway or a part thereof, and includes any street, bridge and any other structure incidental thereto and any part thereof;
- (c) "public work" includes,
  - (i) any railway, canal, highway, bridge, power works including all property used for the generation, transformation, transmission, distribution or supply of hydraulic or electrical power, gas works, water works, public utility or other work, owned, operated or carried on by the Government of Ontario or by any board or commission thereof, or by any municipal corporation, public utility commission or by private enterprises;
  - (ii) any provincial and any municipal public building; and
  - (iii) any other building, place or work designated a public work by the Lieutenant Governor in Council. R.S.O. 1950, c. 324, s. 1.

**2.—(1)** For the purpose of protecting a public work, <sup>Guards, appointment</sup> guards may be appointed by,

- (a) the Attorney General;
- (b) the Commissioner of Police for Ontario;
- (c) any inspector of the Ontario Provincial Police;
- (d) the head or deputy head of the municipal council or the chief constable of the municipality in which the public work is located, or the person acting in the place or stead of the head or deputy head;
- (e) the chairman or other person who is the head of a board, commission or other body owning or having

charge of the public work, or the person acting in the place or stead of the chairman or other person.

Powers of  
guard

(2) Every person appointed as a guard under this section has for the purposes of this Act the powers of a peace officer. R.S.O. 1950, c. 324, s. 5.

Duties of  
guard

(3) Subject to the regulations and to any special direction of the Attorney General or the Commissioner of Police for Ontario, every guard shall obey all directions of the person appointing him, any inspector of the Ontario Provincial Police, the chief constable of the municipality in which is located the public work which he is protecting, and the person who is in charge of the protecting of the public work. R.S.O. 1950, c. 324, s. 6.

Breach of  
duty of  
guard

(4) Every guard who,

- (a) neglects or refuses to obey a direction that he is required to obey under subsection 3;
- (b) fails in any manner to carry out his duties as guard;
- (c) leaves the location to which he is assigned as guard or ceases to act as guard without leave of any of the persons mentioned in subsection 3; or
- (d) otherwise conducts himself in a manner not consistent with his duties as guard,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for a term of not more than two months, or to both. R.S.O. 1950, c. 324, s. 7.

Powers of  
guard or  
peace  
officer

**3.** A guard or peace officer,

- (a) may require any person entering or attempting to enter any public work or any approach thereto to furnish his name and address, to identify himself and to state the purpose for which he desires to enter the public work, in writing or otherwise;
- (b) may search, without warrant, any person entering or attempting to enter a public work or a vehicle in the charge or under the control of any such person or which has recently been or is suspected of having been in the charge or under the control of any such person or in which any such person is a passenger; and
- (c) may refuse permission to any person to enter a public work and use such force as is necessary to prevent any such person from so entering. R.S.O. 1950, c. 324, s. 2.

4. For the purposes of this Act, the statement under oath of an officer or employee of the government, board, commission, municipal or other corporation or other person owning, operating or having control of a public work, as to the boundaries of the public work is conclusive evidence thereof. R.S.O. 1950, c. 324, s. 4.

Statement  
under oath  
to be con-  
clusive  
evidence

5.—(1) Every person who neglects or refuses to comply with a request of direction made under this Act by a guard or peace officer, and every person found upon a public work or any approach thereto without lawful authority, the proof whereof lies on him, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for a term of not more than two months, or to both.

Refusal to  
obey guard  
etc.

(2) A guard or peace officer may arrest, without warrant, any person who neglects or refuses to comply with a request or direction of a guard or peace officer, or who is found upon or attempting to enter a public work without lawful authority. R.S.O. 1950, c. 324, s. 3.

Arrest

6. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the organization, co-ordination, supervision, discipline and control of guards;
  - (b) defining the areas that constitute approaches to public works, either generally or with regard to a particular public work;
  - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 324, s. 8.
-



## CHAPTER 340

## The Quieting Titles Act

**1.** An owner of an estate in fee simple in land or a trustee for the sale of the fee simple is entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not, and whether his title is or is not subject to a charge or encumbrance. R.S.O. 1950, c. 326, s. 1.

Owners, etc., in fee simple may obtain judicial investigation of title

**2.** Any other person who has an estate or interest in land may apply for the investigation of his title and a declaration of the validity thereof, but it is in the discretion of the judge before whom the proceedings are taken to grant or refuse the application and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the judge in exercising such discretion is subject to appeal. R.S.O. 1950, c. 326, s. 2.

In case of any other estate; investigation to be discretionary with the judge

**3.** The Attorney General for Canada or the Attorney General for Ontario may apply for an investigation of the title of the Crown to any land and a declaration of the validity thereof, and the application may be made by information instead of petition, but in other respects the practice and procedure shall be the same as in ordinary cases. R.S.O. 1950, c. 326, s. 3.

Attorney General may apply to quiet title to Crown lands

**4.** Every application shall be made to the Supreme Court or a judge thereof and, subject to section 3, shall be by petition (Form 1). R.S.O. 1950, c. 326, s. 4.

Form of application and to whom made

**5.** The application shall be supported by,

How the application must be supported: title deeds

- (a) the title deeds, if any, and evidences of title in the possession or power of the applicant;
- (b) certified copies of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, up to the time of the granting of the certificate of title save and except mortgages of which discharges have been registered more than ten years prior to the date of the application and the discharges of such mortgages;

registered instruments

registrar's  
certificate

- (c) an abstract of the title certified by the registrar of the registry division in which the land lies, unless the abstract is dispensed with in whole or in part;

statement  
of facts

- (d) a concise statement of such facts as are necessary to make out the title that do not appear in the produced documents, but no abstract of produced documents shall be required except on special grounds;

proof of  
facts

- (e) proof of any fact that is required to be proved in order to make out the title, and which is not established by the produced documents, unless the judge dispenses with such proof until a future stage of the investigation;

affidavit and  
certificate of  
counsel, etc.

- (f) an affidavit or deposition by the person whose title is to be investigated and a certificate of his counsel or solicitor, to the effect hereinafter mentioned, unless the judge, for special reason, dispenses therewith;

schedule of  
particulars  
produced

- (g) a schedule of the particulars produced under this section. R.S.O. 1950, c. 326, s. 5.

What the  
affidavit or  
deposition of  
the appli-  
cant must  
state

**6.**—(1) The affidavit or deposition of the person whose title is to be investigated shall state that to the best of his knowledge and belief he is the owner of the estate or interest claimed by the petitioner, subject only to the charges and encumbrances set forth in the petition or in a schedule thereto, or that there is no charge or encumbrance affecting the land, that the deeds and evidences of title that he produces, and of which a list is contained in the schedule produced under section 5, are all the title deeds and evidences of title relating to the land in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any except what he sets forth.

As to  
petitioner's  
possession  
and other  
material  
facts

(2) The affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title, and shall state that to the best of the deponent's knowledge, information and belief, the affidavit or deposition and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings that affect the title or a part thereof or give any right as against him.

In certain  
cases it may  
be dispensed  
with or made  
by another  
person

(3) The affidavit or deposition may be dispensed with or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition



as to part may be made by one person, and as to part by another, in the discretion of the judge to whom the application is made, and in such case the affidavit shall be modified accordingly. R.S.O. 1950, c. 326, s. 6.

7. The certificate of the counsel or solicitor shall state that he has investigated the title and believes the petitioner to be the owner of the estate that he claims in the land, subject only to any charge or encumbrance set forth in the petition or in the schedule thereto, or that he so believes, subject to any condition, qualification or exemption set forth in the certificate, and that he has conferred with the deponent on the subject of the various matters set forth in the affidavit or deposition referred to in sections 5 and 6 and believes the affidavit or deposition to be true. R.S.O. 1950, c. 326, s. 7.

What the certificate of counsel or solicitor must state

8.—(1) The judge in investigating the title may receive and act upon any evidence that is received by the Supreme Court on a question of title, and any evidence that the practice of conveyancers authorizes to be received on an investigation of a title out of court, or any other evidence, whether the evidence is or is not receivable or sufficient in point of strict law or according to the practice of conveyancers, if the evidence satisfies the judge of the truth of the facts intended to be established thereby.

On what evidence judge may proceed

(2) It is not necessary to produce any evidence that by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents or instruments, unless the judge otherwise directs.

Idem R.S.O. 1960, c. 414

(3) The proof may be by affidavit or certificate or may be given orally or in any other manner or form satisfactory to the judge. R.S.O. 1950, c. 326, s. 8.

Form of proofs

9. Before a certificate of title is granted satisfactory evidence shall be given by certificate, affidavit or otherwise that all taxes, rates and assessments for which the land is liable have been paid, or that all, except those for the current year, have been paid, and by the production of a certificate from the Treasurer of Ontario that all claims for succession duty in respect of the land to be included in the certificate have been satisfied. R.S.O. 1950, c. 326, s. 9.

Taxes must have been paid except for current year

10. If the judge is not satisfied with the evidence of title produced in the first instance, he shall give a reasonable opportunity to produce further evidence or to remove defects in the evidence produced. R.S.O. 1950, c. 326, s. 10.

Further proof if judge not satisfied

Judge  
to order  
notice to be  
published

**11.**—(1) Except as hereinafter provided, before a certificate of title is granted or a conveyance is made under this Act, the judge shall direct to be published in *The Ontario Gazette*, and, if he sees fit, in one or more newspapers, and in such form and for such period as he deems expedient, a notice either of the application having been made, or of the order or decision of the judge thereon, and the notice shall state the time within which adverse claims may be filed, and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of the notice or such other period as the judge appoints.

Notice of  
application  
where land  
is valued  
at not more  
than \$3,000

(2) Where the value of the land is proved to the satisfaction of the judge to be not more than \$3,000, he may dispense with the publication of the notice and in lieu thereof may direct that for such period as he thinks fit a printed or typewritten notice of the application, or of the order or decision of the judge thereon, be posted up in one or more conspicuous places on the land and in such other place, if any, as he thinks fit, and the certificate or conveyance shall not be signed or executed until the period limited by the notice for filing adverse claims has expired. R.S.O. 1950, c. 326, s. 11.

Judge may  
grant certifi-  
cate without  
further  
notice

**12.** Where the judge is satisfied respecting the title, and considers that the certificate of title can safely be granted or the conveyance can safely be executed without any other notice of application than the published or posted notice, he may grant the certificate or direct the execution of the conveyance. R.S.O. 1950, c. 326, s. 12.

Notice to  
adverse  
claimant

**13.** Where it appears that there is a person who may have a claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the judge shall direct such notice as he deems necessary to be mailed to or served on that person, his agent or solicitor. R.S.O. 1950, c. 326, s. 13.

Appoint-  
ment of  
guardian  
*ad litem*

**14.**—(1) Where it appears that any persons who will become the heirs of a living person or that any person not *in esse* may be interested in opposing the claim of the petitioners, the judge may appoint a guardian *ad litem* to represent them and they are bound by the adjudication.

Costs

(2) The judge may order that the costs of the guardian *ad litem* be paid by the petitioner.

Who may be  
guardian

(3) Unless the judge otherwise directs, the Official Guardian shall be appointed guardian *ad litem*. R.S.O. 1950, c. 326, s. 14.

**15.** Before granting the certificate or directing the execution of the conveyance, the judge may require any further publication to take place or any other notice to be mailed or served that he deems necessary. R.S.O. 1950, c. 326, s. 15.

Further  
publication  
or service  
of notice

**16.**—(1) A person having an adverse claim or a claim not recognized in the petition may at any time before the certificate is granted or the conveyance is executed, file and serve on the petitioner, his solicitor or agent, a statement of his claim (Form 2).

Adverse  
claimants to  
file state-  
ments

(2) The claim shall be verified by an affidavit to be filed therewith. R.S.O. 1950, c. 326, s. 16.

Verification

**17.** In case of a contest, the judge may either decide the question of title on the evidence before him, or may refer the question or any matter involved therein to the Court of Appeal, or may direct any mode of investigation that he deems expedient, and may defer granting the certificate or directing the execution of the conveyance. R.S.O. 1950, c. 326, s. 17.

In case of  
contest,  
judge may  
decide or  
refer the  
case

**18.** The judge may at any stage of the proceeding order security for costs to be given by the petitioner or by any person making an adverse claim. R.S.O. 1950, c. 326, s. 18.

Security  
for costs

**19.** The judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any party to any proceeding, and may give directions as to the fund out of which any costs shall be paid. R.S.O. 1950, c. 326, s. 19.

Payment  
of costs

**20.** The petitioner may by leave of the judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by an adverse claimant. R.S.O. 1950, c. 326, s. 20.

Withdrawal  
of appli-  
cation

**21.** Subject to the rules of court, the judge may refer a petition or any question arising in the course of any proceeding thereon to any referee of titles or other officer of the court, or to counsel named by the judge, who shall proceed as the judge himself should do had the reference not been made, and has all the powers of the judge, except the power to grant the certificate or to direct the execution of the conveyance. R.S.O. 1950, c. 326, s. 21.

Petition may  
be referred  
to referee  
or counsel

**22.**—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications unless the petition expressly states the contrary:

Claims of  
title to be  
presumed to  
be made with  
certain  
exceptions

1. The reservations, if any, contained in the original grant from the Crown.
2. Any municipal charges, rates or assessments theretofore imposed for local improvements and not yet due and payable.
3. Any title or lien that, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land.
4. Any lease or agreement for a lease for a period yet to run, not exceeding three years, where there is actual occupation under it.
5. Any public highway, right of way, watercourse and right of water, and other easement.
6. Any right of the wife or husband of the petitioner to dower or curtesy.
7. Any claim for succession duty.

But claim  
may be  
without  
exceptions

(2) If the petitioner desires the certificate to declare the title to be free from such exceptions or qualifications, or any of them, the petition shall so state, and the investigation shall proceed accordingly, but this subsection does not apply to the exception or qualification as to a public highway. R.S.O. 1950, c. 326, s. 22.

One certi-  
ficate or  
several

**23.** The judge may give one certificate of title comprising all the land mentioned in the petition, or may give separate certificates as to separate parts of the land. R.S.O. 1950, c. 326, s. 23.

Form of  
certificate

**24.** The certificate of title (Form 3) shall be under the seal of the court and shall be signed by a judge and, where the proceedings on the petition are conducted in Toronto, by the Referee of Titles and in other cases by the Inspector of Titles and shall also be signed by the Registrar or an assistant registrar of the Supreme Court, and the certificate and the schedule, if any, thereto or a duplicate or counterpart of it shall be registered in full both in the Supreme Court and in the registry office of the registry division where the land lies without any further proof thereof. R.S.O. 1950, c. 326, s. 24.

Registration  
of certificate

**25.** A certificate of the registration in the Supreme Court may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus:

Registered in..... 19 , .....Book  
 Page.....

*A.H.,*  
 Registrar of the Supreme Court (*or as the case may be*)

and a memorandum or certificate so signed is evidence of the registration mentioned therein. R.S.O. 1950, c. 326, s. 25.

**26.** The certificate of title, sealed, signed and registered as required by section 24, is conclusive, and the title therein mentioned shall be deemed absolute and indefeasible on and from the date of the certificate as regards the Crown and all persons whomsoever, subject only to any charges or encumbrances, exceptions or qualifications mentioned therein or in the schedule thereto, and is conclusive evidence that every application, notice, publication, proceeding, consent and act that ought to have been made, given and done before the granting of the certificate, has been made, given and done by the proper person. R.S.O. 1950, c. 326, s. 26.

*Effect of  
 certificate  
 of title*

**27.** After a certificate of title is registered, a copy thereof purporting to be signed and certified as a copy by the Registrar or an assistant registrar of the Supreme Court, or by the registrar of the registry division in which the land lies, is admissible evidence of the certificate for all purposes without further evidence of such copy, and without accounting for the non-production of the certificate. R.S.O. 1950, c. 326, s. 27.

*Certified  
 copy of  
 certificate  
 to be  
 evidence*

**28.** In case of a sale by the Supreme Court, the court may investigate the title with a view to granting an indefeasible title, and in that case a conveyance (Form 4), executed to the purchaser, under the seal of the court and purporting to be under the authority of this Act, has the same effect as a certificate. R.S.O. 1950, c. 326, s. 28.

*Conveyance  
 by the court  
 in case of  
 sale*

**29.** Where judgment is given for the specific performance of a contract for the sale of land and it is provided by the contract that the vendor shall give an indefeasible title, the court may make the like investigation, and the conveyance may be according to Form 4. R.S.O. 1950, c. 326, s. 29.

*Where an  
 indefeasible  
 title is con-  
 tracted for*

**30.** Where a person domiciled or claiming land in Ontario desires to establish that he is the legitimate child of his parents, or that the marriage of his father or mother or of his grandfather and grandmother was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir or one of the heirs of a person deceased, or that he is a natural born subject of Her Majesty, he may, if the court thinks fit, have any of such matters judicially investigated and declared. R.S.O. 1950, c. 326, s. 30.

*Right to  
 judicial  
 investigation  
 of some  
 fact that  
 may affect  
 a title*

Application  
and affidavit  
in support

**31.**—(1) The application shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition, and stating that his claim is not disputed or questioned by any person, or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any dispute or question except what he has set forth, and stating such other facts as may satisfy the court of the propriety of proceeding with the investigation.

Investigation,  
proof, etc.,  
in such  
case

(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 1, and the certificate granted on the investigation shall be registered in the same way, and may be proved by the like evidence, as in the case of a certificate under section 12.

Effect of  
certificate

(3) The certificate when registered is conclusive and indefeasible in favour of the person to whom it was granted and all persons claiming by, from, through or under him as regards the Crown and all persons whomsoever and is *prima facie* evidence in favour of all other persons as against the Crown and all persons whomsoever of the truth of the fact therein declared. R.S.O. 1950, c. 326, s. 31.

Certificate  
obtained by  
fraud

**32.** If in the course of any proceeding any person acting either as principal or agent knowingly and with intent to deceive makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding or concealing from the court of any material document, fact or matter of information, any certificate or conveyance obtained by means of such fraud or falsehood is void except as against a purchaser for valuable consideration without notice. R.S.O. 1950, c. 326, s. 32.

Re-investi-  
gation,  
petition for

**33.**—(1) After a certificate is granted or a conveyance is executed, any person aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, by leave of the court or a judge, have the title or claim re-investigated on such terms as are deemed just.

Registra-  
tion

(2) A certificate of the presentation of the petition shall be registered in the proper registry office.

Those  
who have  
purchased,  
etc., in the  
meantime  
not to be  
affected

(3) No proceeding on such petition affects the title of any person who, after the date of the certificate or conveyance under this Act and before the registration of the certificate of the presentation of the petition, has acquired by sale, mortgage or contract, for valuable consideration, any estate or interest in the land described in the certificate or conveyance, or, if the certificate was granted under section 30, in any land or other

property the title to which was derived from, through or under the person named in the certificate, in the character that is thereby declared to belong to him.

(4) The court or judge may make such order on the petition <sup>What order may be made</sup> as he deems just having regard to subsection 3 and of section 32. R.S.O. 1950, c. 326, s. 33.

**34.** An appeal lies from an order or decision of a judge <sup>Appeals</sup> under this Act to the Court of Appeal in the same manner and subject to the same restrictions as in the case of an appeal from a judgment or order of a judge of the High Court in an action. R.S.O. 1950, c. 326, s. 34.

**35.** A separate book shall be kept in the Supreme Court <sup>Register to be kept</sup> for the registration of certificates and conveyances under this Act, and the certificates and conveyances registered therein shall be numbered in order, and an index to the book shall be kept in such form as the court directs. R.S.O. 1950, c. 326, s. 35.

**36.** Where any person who, if not under disability, might <sup>Where any party is a minor, mental defective, etc.</sup> have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is an infant, a mentally defective person, or a mentally incompetent person, the guardian of the infant, or committee of the estate of the mentally defective person or mentally incompetent person, may make such application, give such consent, do such act, and be party to such proceeding as such person might if free from disability, and shall otherwise represent such person for the purposes of this Act, and if the infant has no guardian, or the mentally defective person or mentally incompetent person no committee of his estate, the court or judge may appoint a person with like power to act for the infant, mentally defective person or mentally incompetent person. R.S.O. 1950, c. 326, s. 36.

**37.** A married woman shall, for the purposes of this Act, <sup>Married women</sup> be deemed to be a *feme sole*. R.S.O. 1950, c. 326, s. 37.

**38.** No objection to a petition shall be allowed upon the <sup>Objections to petition</sup> ground that the petitioner should first have brought an action, and, if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land, he may obtain an order against any other party to the proceeding for the delivery of possession thereof. R.S.O. 1950, c. 326, s. 38.

**39.** Proceedings shall not abate or be suspended by a <sup>Proceedings not abated by certain events</sup> death or transmission or change of interest, but in any such event the court or a judge may require notices to be given

to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto as seem just. R.S.O. 1950, c. 326, s. 39.

Proceedings  
not void for  
want of  
form

**40.** No petition, order, affidavit, certificate, registration or other proceeding is invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1950, c. 326, s. 40.

Inspector  
of Titles

**41.**—(1) There shall be an Inspector of Titles who shall supervise the work of the local referees of titles.

to be officer  
of Supreme  
Court

(2) Such officer of the Supreme Court as is designated for that purpose by the rules of court is the Inspector of Titles. R.S.O. 1950, c. 326, s. 41.

Referees of  
Titles

**42.** Every local master is local referee of titles and, where the proceedings under the petition are to be conducted at Toronto, the Inspector of Titles is Referee of Titles. R.S.O. 1950, c. 326, s. 42.

Powers of  
Inspector  
and referees

**43.** The Inspector of Titles, the Referee of Titles and every local referee of titles in respect of the petition and the proceedings thereunder have the like powers as the Master of the Supreme Court. R.S.O. 1950, c. 326, s. 43.

Powers of  
Referee of  
Titles

**44.** The Referee of Titles and every local referee of titles have the same powers as a judge of the Supreme Court within the limits prescribed by the rules. R.S.O. 1950, c. 326, s. 44.

Application  
of R.S.O.  
1960,  
c. 197

**45.** Subject to the rules of court and except where otherwise provided, the practice and procedure under *The Judicature Act* and the rules made thereunder apply to proceedings under this Act. R.S.O. 1950, c. 326, s. 45.

Rules  
Committee  
may make  
general  
rules

**46.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules for referring petitions under this Act to any referee of titles or other officer of the court, or to any counsel or other person and may regulate the fees to be paid on such references.

Rules for  
practice  
and  
procedure

(2) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may also make rules for the purposes of and for regulating the practice or procedure under this Act notwithstanding that the practice or procedure prescribed by this Act may be thereby varied. R.S.O. 1950, c. 326, s. 46.

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## FORM 1

(Section 4)

## PETITION TO QUIET A TITLE

*In the Supreme Court of Ontario*

In the matter of (the east half of lot No.....in the.....  
*Concession of the Township of....., or as the case may be,*  
*briefly describing the property).*

To the Honourable the Judges of the Supreme Court of Ontario.

The Petition of.....of.....

## SHEWETH:

That your Petitioner is absolute owner in fee simple in possession (*or as the case may be*) of the following land (*describing it*).

That there is no charge or other encumbrance affecting your Petitioner's title to the land, (except, etc., *or that your Petitioner's title is subject only to the charges or encumbrances in the schedule hereto mentioned, and that the only persons having or claiming any charge, encumbrance, estate, right or interest in the land are set forth in the schedule hereto annexed, and that the charge, encumbrance, estate, right or interest belonging to or claimed by each is therein set forth*). Your Petitioner therefore prays that his title to the land may be investigated and declared under *The Quieting Titles Act*.

A.B.,

or

C.D., Solicitor for A.B.

R.S.O. 1950, c. 326, Form 1.

## FORM 2

(Section 16 (1))

## ADVERSE CLAIM

*In the Supreme Court of Ontario*

In the matter of, etc., (*as in petition*).

G.H., of, etc., claims to be the owner of the land [*or as the case may be (stating briefly the nature and the grounds of the claim)*].

Dated this.....day of....., 19.....

G.H.,

or

E.F., Solicitor for G.H.

R.S.O. 1950, c. 326, Form 2.

## FORM 3

(Section 24)

## CERTIFICATE OF TITLE

*In the Supreme Court of Ontario*

These are to certify under the authority of *The Quieting Titles Act*, that *A.B.*, of....., is the legal and beneficial owner in fee simple in possession (*or as the case may be*) of all, etc. (*here describe the land*) subject to the exceptions and qualifications mentioned in section 22 of the said Act (*or as the case may be*), and to (*specifying either by reference to a schedule or otherwise any of the charges or encumbrances, exceptions or qualifications to which the title of A.B. is subject*), but free from all other rights, interests, claims and demands whatever.

[*Or that (stating the facts found and declared under section 30, and stating on whose application the same are declared) .*]

In witness whereof.....  
 .....one of the Justices of the Court has  
 hereunto set his hand, and the seal of the Court has been hereunto affixed,  
 this.....day of....., 19.....

*G.S.H.*,  
 Inspector (*or Referee*) of Titles.

*J.A.B.* [L.S.]

R.S.O. 1950, c. 326, Form 3.

## FORM 4

(Section 28)

## CONVEYANCE BY THE SUPREME COURT

The Supreme Court of Ontario, under the authority of *The Quieting Titles Act*, doth hereby grant unto *A.B.*, of.....  
 [*here describe the land sold*] to hold the same unto the said.....  
 .....in fee simple (*or as the case may be*),  
 subject to [*here specify as in the case of a certificate of title*].

In witness whereof.....  
 .....one of the Justices of the Court has  
 hereunto set his hand, and the seal of the Supreme Court has been hereunto  
 affixed, this.....day of....., 19.....

*G.S.H.*,  
 Registrar.

*J.A.B.* [L.S.]

R.S.O. 1950, c. 326, Form 4.

## CHAPTER 341

## The Race Tracks Tax Act

## 1. In this Act,

Interpre-  
tation

- (a) "person" includes an incorporated company, association and club;
- (b) "race meeting" means a series of races for horses;
- (c) "regulations" means the regulations made under this Act;
- (d) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 327, s. 1.

2. Every person owning or operating a race track and holding a race meeting shall pay in advance before each race meeting for each day of the race meeting a tax of \$1. R.S.O. 1950, c. 327, s. 2.

Tax on race  
meetings

3.—(1) Every holder of a winning ticket issued under the pari-mutuel system upon a race run at a race meeting shall pay a tax at the rate of 5 per cent or such other rate as the Lieutenant Governor in Council prescribes upon the amount that would be payable to him if no percentage were deducted or retained by the person holding the race meeting in respect of such race.

Tax on bets

(2) The tax shall be collected by the person holding the race meeting as the agent of the Treasurer by deducting from the total amount bet or wagered upon such race, a sum equal to 5 per cent or such other rate as is prescribed of the amount so bet or wagered, and such sum shall be paid over to the Treasurer at the close of each day's racing. R.S.O. 1950, c. 327, s. 3.

Collection

4.—(1) Every person owning, operating or using a race track and holding a race meeting shall, within two weeks after the close of each race meeting, furnish to the Treasurer a detailed statement, verified by the affidavit of such person or of some other person satisfactory to the Treasurer,

Returns at  
close of  
meeting

- (a) of the moneys received and of the moneys paid out at or in connection with the race meeting;
- (b) of the total amount wagered on the track or tracks

at the race meeting in respect of which such person derived any benefit; and

- (c) of the percentage or other portion thereof taken by such person.

Office and  
books

(2) Every person owning, operating or using a race track and holding a race meeting shall maintain an office at or near the race track and within Ontario at which at all times shall be kept the books of account and vouchers relating to the race track and any race meetings held by him, and, in the case of a company, association or club, the minute book shall also be kept at such office and the books of account, vouchers and minute book shall at all times be open to the inspection of the Treasurer or his duly accredited representative.

Access

(3) Such officers or clerks of the Treasury Department as are appointed by the Treasurer for the purpose of ascertaining the amount wagered in connection with the tax imposed by section 3 have access free of all charge at all times to all parts of any race track including the pari-mutual plant connected therewith during the progress of a race meeting.

Offences

(4) Every person opening or continuing a race meeting on any day in respect of which the tax imposed under this Act has not been paid or neglecting or refusing to deduct and pay over the tax mentioned in section 3, or neglecting to furnish the statement required by subsection 1, or to comply with subsection 2, is liable to a penalty of \$1,000 for every day during which the default continues, and where such person is a company, association or club, every director, manager or secretary thereof who wilfully authorizes or permits such default is liable to a like penalty.

Default

(5) Where default has been made by such person in the payment of the tax imposed by section 2, or in deducting and paying over the tax mentioned in section 3, or in making any return required by this section or under any other provision of this Act, or in complying with subsection 2, or such person is contravening any statute of Canada or of Ontario, any member of the Ontario Provincial Police Force, acting under the instructions of the Treasurer, may stop all racing upon the track of such person, or the holding of any further race meeting by such person. R.S.O. 1950, c. 327, s. 4.

Payment  
of tax

5. Where under any agreement or arrangement whenever entered into, a person conducting a race meeting upon a race course has leased, assigned or otherwise disposed of, or suffers or permits the enjoyment of the betting privileges or the operation of pari-mutuel machines upon or in connection with such race course to or by any other person, such other person

shall deduct and pay over to the Treasurer the tax imposed under this Act and this Act applies to such other person as well as to the person conducting such race meeting, and in the event of the neglect, refusal or failure of such other person to deduct and pay over the tax and to comply with this Act the person conducting the race meeting in respect of which such default occurs as well as such other person is liable to the penalties provided by this Act, and any member of the Ontario Provincial Police Force acting under the instructions of the Treasurer, may stop all racing upon the track upon which the race meeting is conducted or the holding of any further race meeting by such person. R.S.O. 1950, c. 327, s. 5.

**6.—(1)** For the purpose of obtaining any information that <sup>Obtaining</sup> he deems necessary for the purposes of this Act, the Treasurer <sup>informa-</sup> <sup>tion</sup> may,

- (a) demand from any person such information as is indicated in a letter delivered or sent by prepaid mail to such person and every such person shall furnish to the Treasurer all such information that he has in his possession or under his control, in writing, within one month of the delivery or sending of such letter; or
- (b) appoint any officer of the Treasury Department to make such inquiry as is necessary to obtain such information and for the purpose of such inquiry such officer has all the power and authority that may be conferred upon a commissioner under *The Public* <sup>R.S.O. 1960,</sup> <sup>c. 323</sup> *Inquiries Act*.

(2) Any act done or proceeding taken under either of the <sup>Idem</sup> clauses of subsection 1 does not preclude the Treasurer from proceeding under the other clause. R.S.O. 1950, c. 327, s. 6.

**7.—(1)** The taxes and penalties imposed under this Act <sup>Recovery of</sup> may be recovered by an action in any court in which a debt or <sup>tax and</sup> money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury.

(2) Except where otherwise provided, the penalties imposed <sup>Penalties</sup> by this Act may be recovered in the manner provided by *The Summary Convictions Act* and are payable to the Treasurer. <sup>R.S.O. 1960,</sup> <sup>c. 387</sup> R.S.O. 1950, c. 327, s. 7.

**8.** The Lieutenant Governor in Council may make regu- <sup>Regulations</sup> lations,

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or impose any duty conferred or imposed upon the Treasurer by this Act;
- (b) prescribing the forms of returns required to be made by this Act and the information to be furnished therein;
- (c) providing for the manner of collecting the tax imposed by this Act;
- (d) authorizing the payment of remuneration to persons charged with the collection of the tax and prescribing the amount thereof;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 327, s. 8.

Affidavits  
and  
declarations

**9.** Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that purpose by the Lieutenant Governor in Council, but any person so specifically authorized shall not charge any fee therefor. R.S.O. 1950, c. 327, s. 9.

Information  
obtained  
under Act

**10.—(1)** No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Offence

**(2)** Every person who contravenes any provision of this section is guilty of an offence and liable to a fine of not more than \$200. R.S.O. 1950, c. 327, s. 10.

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## CHAPTER 342

**The Racing Commission Act****1.** In this Act,Interpre-  
tation

- (a) "Commission" means the Ontario Racing Commission;
- (b) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council. R.S.O. 1950, c. 329, s. 1.

**2.** The body corporate known as the Ontario Racing Commission, established under *The Racing Commission Act*, 1950, is continued and shall be composed of not fewer than three and not more than seven members appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 329, s. 2, amended.

**3.** The object of the Commission is to govern, direct control and regulate horse racing in Ontario in any or all of its forms. R.S.O. 1950, c. 329, s. 3.

**4.** The members of the Commission shall hold office during the pleasure of the Lieutenant Governor in Council. R.S.O. 1950, c. 329, s. 4.

**5.—(1)** The Lieutenant Governor in Council shall name one of the members to be the chairman and one of the members to be the vice-chairman.

(2) When the office of chairman is vacant or in the absence of the chairman, the vice-chairman shall act in his place and stead. R.S.O. 1950, c. 329, s. 5.

**6.—(1)** At any meeting of the Commission a majority of the members constitutes a quorum, and a majority vote of the members present at any meeting of the Commission determines any question.

(2) The chairman has a casting vote in addition to his ordinary vote. R.S.O. 1950, c. 329, s. 6.

**7.** The Lieutenant Governor in Council may fill any vacancy that occurs in the membership of the Commission. R.S.O. 1950, c. 329, s. 7.

Salaries  
of members  
and staff

8. The Lieutenant Governor in Council shall fix the salaries of the chairman, the vice-chairman and the other members of the Commission, and may appoint such officers, clerks or other employees as are necessary for the purposes of the Commission, and shall fix their salaries, wages or other remuneration. R.S.O. 1950, c. 329, s. 8.

Chairman  
and staff  
to be civil  
servants  
R.S.O. 1960,  
c. 331

9.—(1) The chairman of the Commission and all officers, clerks and other employees thereof are subject to *The Public Service Act* and are civil servants within the meaning of that Act.

Members  
may be  
made civil  
servants

(2) The Lieutenant Governor in Council may provide that the members of the Commission, other than the chairman, or any of them, are subject to *The Public Service Act* and are civil servants within the meaning of that Act. R.S.O. 1950, c. 329, s. 9.

Expenses  
payable out  
of vote

10. The salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof, and generally all costs, charges and expenses incurred and payable in respect of the carrying out of this Act, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 329, s. 10.

Powers of  
Commission

11. The Commission has power,

- (a) to govern, direct, control and regulate horse racing in Ontario in any or all of its forms;
- (b) to govern, control and regulate the operation of race tracks in Ontario at which any form of horse racing is carried on;
- (c) to hold hearings relating to the carrying out of its objects or powers, and to summon any person by subpoena signed by the chairman or by any other member of the Commission, and to require such person to give evidence on oath and to produce such documents and things as the Commission deems requisite in any such hearing;
- (d) to enforce the carrying out and observance of all regulations, rules and conditions established under this Act, by a fine or other penalty or otherwise;
- (e) to make by-laws for the conduct of its business and for the control and direction of its work;
- (f) to license persons to operate race tracks at which horse racing in any of its forms is carried on;



- (g) to license owners, trainers, drivers, jockeys, apprentice jockeys, grooms, jockeys' agents, jockeys' valets, exercise boys, tradesmen and such other persons in or about race tracks at which horse racing in any of its forms is carried on, as the Commission deems expedient;
- (h) to fix and collect fees or other charges for licences, prescribe the form thereof and the conditions under which they may be issued;
- (i) to refuse to grant any licence or to suspend or revoke any licence for conduct that the Commission considers to be contrary to the public interest;
- (j) to require registration with the Commission of, and to register colours, assumed names, partnerships and contracts and such other matters and things as the Commission deems expedient;
- (k) to fix and collect fees or other charges for registration under clause *j* and to prescribe the form thereof and the conditions under which registration may be made;
- (l) to make and promulgate rules for the conduct of horse racing in any of its forms;
- (m) to employ stewards, veterinarians, analysts and such other persons as the Commission deems expedient to attend at race meetings on behalf of the Commission;
- (n) to require approval by the Commission of the appointment of race track officials and employees whose duties relate to the actual running of horse races and to compel the discharge for cause of any such official or employee;
- (o) to fix, impose and collect fines and other penalties for a contravention of any requirement of the Commission under this Act;
- (p) to require persons licensed to operate race tracks to keep books of account in a manner satisfactory to the Commission, and to inspect such books at any time;
- (q) to do such things relating to horse racing in any or all of its forms, or to the operation of race tracks at which horse racing is carried on, as are authorized or directed by the Lieutenant Governor in Council. R.S.O. 1950, c. 329, s. 11; 1951, c. 76, s. 1; 1959, c. 86, s. 1.

## Audit

**12.** The accounts of the Commission shall be audited by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council appoints. R.S.O. 1950, c. 329, s. 12.

Annual  
report

**13.** The Commission shall make a report annually to the Minister, containing such information as the Minister requires. R.S.O. 1950, c. 329, s. 13.

## Regulations

**14.** The Lieutenant Governor in Council may make regulations with respect to any and all matters or things as deemed necessary for the carrying out of this Act. R.S.O. 1950, c. 329, s. 14; 1951, c. 76, s. 2.

Racing rules,  
etc., to be  
administra-  
tive

**15.** Rules for the conduct of horse racing may be promulgated by the Commission under this Act and any order or ruling issued or made by the Commission under this Act shall be deemed to be of an administrative and not of a legislative nature. 1951, c. 76, s. 3.

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## CHAPTER 343

## The Railway Fire Charge Act

## 1. In this Act,

Interpre-  
tation

(a) "collector" means the Land Tax Collector appointed under *The Provincial Land Tax Act*;

R.S.O. 1960  
c. 313

(b) "Minister" means the Minister of Lands and Forests;

(c) "railway lands" includes all lands heretofore or hereafter set apart under any general or special Act of the Legislature as a land subsidy or otherwise in aid of any railway or of any works in connection therewith or of any works to be established, maintained or carried on by any railway;

(d) "tenant" includes a licensee and occupant and any person, other than the owner, having any right to cut timber on railway lands whether the right is derived from the owner or otherwise. R.S.O. 1950, c. 330, s. 1; 1956, c. 75, s. 1.

2. The charge imposed by this Act is not payable in respect of railway lands situate in a municipality or in respect of railway lands wherever situate that are used in connection with a place of worship, churchyard, cemetery or burying ground or where the railway lands of an owner or tenant comprise fewer than 200 acres and are subject to the tax under *The Provincial Land Tax Act*. 1956, c. 75, s. 2.

Exemptions

3.—(1) Subject to section 2, the owner or tenant of any railway lands shall pay to the Minister annually for the uses of Ontario and for the purpose of defraying the expenses of protecting the property, rights and interest of such owner or tenant against fire, for every square mile or fraction thereof of such railway lands a sum not exceeding \$15 per annum as prescribed by the Lieutenant Governor in Council from time to time. R.S.O. 1950, c. 330, s. 2 (1); 1951, c. 77, s. 1; 1956, c. 75, s. 3 (1).

Annual  
charge for  
protection

(2) Where the railway lands of an owner or tenant comprise fewer than 200 acres and such lands are not subject to tax under *The Provincial Land Tax Act*, the charge imposed by this Act is \$6. 1956, c. 75, s. 3 (2).

Where  
charge  
to be \$6

Tenants of  
railway lands  
acquired by  
Crown

(3) Subject to section 5, the tenant of any railway lands heretofore or hereafter acquired by the Crown shall pay the charge imposed by this Act. R.S.O. 1950, c. 330, s. 2 (2).

Liability  
of tenant

4.—(1) A tenant of railway lands is jointly and severally liable with the owner for the payment of the charge imposed by this Act and it becomes due and payable on or before the 1st day of February in each year. R.S.O. 1950, c. 330, s. 3 (1); 1956, c. 75, s. 4.

Apportion-  
ment of  
charge

(2) If at any time any question arises between the owner and tenant of any railway lands as to the proportion in which the charge imposed by this Act is to be borne as between the owner and tenant, either the owner or the tenant may apply to the Minister to fix the proportion and the decision of the Minister is final and binding as between the owner and the tenant. R.S.O. 1950, c. 330, s. 3 (2).

Exemption  
of agri-  
cultural  
lands

5. Where the owner or tenant of any railway lands furnishes proof to the satisfaction of the Minister on or before the 1st day of January in any year in which the charge imposed by this Act is payable that such railway lands or any part thereof were during the preceding calendar year actually and in good faith in use for agricultural purposes, the owner or tenant is entitled to a reduction of the charge payable by him to the extent to which such railway lands were so used, and the decision of the Minister as to such right to exemption is final and is not open to appeal or to be questioned in any manner whatsoever. R.S.O. 1950, c. 330, s. 4.

Recovery  
of charge  
by action

6. The charge imposed by this Act is a debt due to the Crown and is recoverable at the suit of the Minister in an action brought by him in his name of office in a court of competent jurisdiction. R.S.O. 1950, c. 330, s. 5.

Collector's  
roll

7. The collector shall prepare a roll of the lands in respect of which the charge imposed by this Act is payable and shall insert therein such particulars as he is able to ascertain and as are required by the regulations. R.S.O. 1950, c. 330, s. 6.

Computation  
of charges

8.—(1) The collector shall compute the annual charges imposed by this Act and shall insert the amounts thereof in the roll.

Billing

(2) The collector shall send a bill by prepaid mail to every owner or tenant of railway lands on which a charge is imposed by this Act at his last known address on or before the 15th day of January in the year for which the charge is imposed, and such bill shall contain a description of the lands, the area

thereof, the amount of the charge payable and such other information as the collector deems appropriate. 1956, c. 75, s. 5.

**9.** Where the charge imposed by this Act remains unpaid on the 1st day of March in the year for which it is payable, a penalty of 5 per cent shall be added thereto and the charge and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of March until paid, and for all purposes the amount of the charge, penalty and interest shall be deemed to be the charge due and payable under this Act. 1956, c. 75, s. 7.

**10.** Sections 23 and 24 of *The Provincial Land Tax Act* apply *mutatis mutandis* to this Act. 1956, c. 75, s. 8.

Penalty  
and interest  
on unpaid  
charges  
  
Application  
of  
R.S.O. 1960,  
c. 313,  
ss. 23, 24

**11.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing forms and providing for their use;
  - (b) requiring the owners and tenants of railway lands to furnish such returns and other information to the Minister as he deems necessary;
  - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 330, s. 15, 1956, c. 75, s. 9.
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## CHAPTER 344

### The Real Estate and Business Brokers Act

**1. In this Act,**

Interpre-  
tation

- (a) "broker" means a person who, for another or others, for compensation, gain or reward or hope or promise thereof, either alone or through one or more officials or salesmen, trades in real estate, or a person who holds himself out as such;
- (b) "business" means an undertaking carried on for the purpose of gain or profit, and includes an interest in any such undertaking, and, without limiting the generality of the foregoing, includes a boarding house, hotel, store, tourist camp and tourist home;
- (c) "official" means the president, vice-president, secretary, treasurer, secretary-treasurer or general manager of a partnership or company, or the manager of the real estate department of a trust company;
- (d) "prescribed" means prescribed by this Act or the regulations;
- (e) "real estate" includes real property, leasehold and business whether with or without premises, fixtures, stock-in-trade, goods or chattels in connection with the operation of the business;
- (f) "register" means the register under this Act;
- (g) "Registrar" means the Registrar of Real Estate and Business Brokers;
- (h) "regulations" means the regulations made under this Act;
- (i) "salesman" means a person employed, appointed or authorized by a broker to trade in real estate;
- (j) "Superintendent" means the Superintendent of Insurance;
- (k) "trade" includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition or transaction, and any

act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb "trade" has a corresponding meaning. R.S.O. 1950, c. 332, s. 1; 1957, c. 106, s. 1.

#### REGISTRAR

Registrar

**2.—**(1) There shall be a Registrar of Real Estate and Business Brokers who shall be appointed by the Lieutenant Governor in Council.

Power and duties

(2) The Registrar may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Superintendent. R.S.O. 1950, c. 332, s. 2.

#### REGISTRATION

Registration of brokers, salesmen, officials

**3.—**(1) No person shall,

- (a) trade in real estate as a broker unless he is registered as a broker;
- (b) trade in real estate as a salesman unless he is registered as a salesman of a registered broker;
- (c) act as an official of or on behalf of a partnership or company in connection with a trade in real estate by the partnership or company unless he and the partnership or company are registered as brokers. R.S.O. 1950, c. 332, s. 3 (1); 1954, c. 82, s. 1 (1); 1957, c. 106, s. 2.

Change in partnership

(2) Subject to section 42, any change in the membership of a partnership shall be deemed to create a new partnership and to extinguish any existing registration. R.S.O. 1950, c. 332, s. 3 (2); 1954, c. 82, s. 1 (2).

Change in company's officers

(3) A change in the officers of a registered limited company may be made only with the consent of the Registrar. 1954, c. 82, s. 1 (3).

Salesman, registration

**4.—**(1) A salesman may only be registered where he is the salesman of a registered broker. R.S.O. 1950, c. 332, s. 4 (1).

Suspension of registration

(2) The termination of the employment of a salesman with a registered broker operates as a suspension of the registration of the salesman until notice in writing has been received by the Registrar from another registered broker of his intention to employ the salesman and until the salesman is again registered as a salesman. 1954, c. 82, s. 2.



**5.** The Registrar may grant or refuse to grant temporary registration or temporary renewal of registration to an applicant therefor and shall forthwith report to the Superintendent the action taken by him upon any such application. R.S.O. 1950, c. 332, s. 5. Temporary registration

**6.** The Superintendent shall grant registration or renewal of registration to an applicant where in his opinion the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1950, c. 332, s. 6. Registration

**7.** The Superintendent shall suspend or cancel a registration where in his opinion such action is in the public interest. R.S.O. 1950, c. 332, s. 7. Suspension, cancellation

**8.—(1)** In determining the granting or refusal of an application for registration or renewal of a registration or the suspension or cancellation of a registration, the Superintendent may, and shall when so requested in writing by the applicant or person registered, appoint an advisory board consisting of three members of whom two shall be registered brokers and the third shall be chairman, which shall hold a hearing and make a report to the Superintendent with such recommendation as it deems fit. Advisory board to hold hearing and report

**(2)** For the purpose of the hearing, the chairman of the advisory board has and may exercise all of the powers that may be conferred on a commissioner under *The Public Inquiries Act*. 1958, c. 93, s. 1. Powers of chairman  
R.S.O. 1960, c. 323

**9.** Notwithstanding any order of the Superintendent, a further application may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1950, c. 332, s. 8. Further applications

**10.—(1)** Every application shall be made in writing upon the prescribed form provided by the Superintendent and shall be accompanied by the prescribed fee and a bond in such amount and form, subject to section 19, as is prescribed. Application to be upon forms with proper fees and bonds

**(2)** The bond shall be,

(a) the bond of a guarantee company approved under *The Guarantee Companies Securities Act*;

(b) a personal bond accompanied by collateral security; or

(c) the bond of a guarantor, other than a guarantee company, accompanied by collateral security.

Type of bond

R.S.O. 1960, c. 168

Collateral  
security

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations not less in value than the sum secured by the bond, and shall be deposited with the Treasurer of Ontario. R.S.O. 1950, c. 332, s. 9.

Address for  
service

**11.** Every applicant shall state in the application an address for service in Ontario and all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1950, c. 332, s. 10.

Further  
information

**12.** The Registrar may, and shall when so directed by the Superintendent, require further information or material to be submitted by any applicant or any registered person within a specified time limit and may require verification by affidavit or otherwise of any information or material then or previously submitted. R.S.O. 1950, c. 332, s. 11.

## Residence

**13.** Registration, in the absolute discretion of the Superintendent, may be refused to a person either as a broker or salesman who has not been a resident of Ontario for at least one year immediately prior to the date of application with the intention of making his permanent home in Ontario unless at the time of the application the person is registered either as a broker or salesman under the laws relating to real estate and business brokers and salesmen of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of such application and is otherwise suitable for registration. R.S.O. 1950, c. 332, s. 12 (1).

Temporary  
registration  
on death  
of broker

**14.—(1)** Where a registered broker who carries on business as an individual broker dies, the Registrar may,

- (a) grant to the executor or administrator of such broker temporary registration as a broker for a period of not more than six months in respect of the business of the deceased broker; and
- (b) exempt any such executor or administrator from passing a written examination.

Salesmen  
of deceased  
broker

(2) All salesmen registered as salesmen of the deceased broker at the time of his death shall be deemed to be registered as salesmen of such executor or administrator. R.S.O. 1950, c. 332, s. 13.

Termination  
and renewal  
of registra-  
tion

**15.** Every registration and renewal of registration lapses on the 30th day of April in each year and every registered broker shall apply on the prescribed form for renewal of his

own registration and the registration of his currently registered salesmen on or before the 20th day of April giving full particulars of any change in the facts set forth in the latest application form on record and enclosing the prescribed fees for the broker and his salesmen as upon a first application. 1957, c. 106, s. 3.

**16.**—(1) Every registered broker shall immediately notify the Registrar in writing of, Change in registration of broker

- (a) any change in the address for service;
- (b) any change in the partners in the case of a partnership; and
- (c) the commencement and termination of employment of every salesman.

(2) Every registered salesman shall immediately notify the Registrar in writing of, Salesman

- (a) any change in his address for service; and
- (b) every commencement and termination of his employment by a registered broker. R.S.O. 1950, c. 332, s. 15; 1954, c. 82, s. 3.

**17.**—(1) The Registrar shall cause all cash, cheques and money orders to be deposited daily with the Treasurer of Ontario for payment into the Consolidated Revenue Fund. Registrar to make daily deposit

(2) Where an application for registration is refused, or is granted after the 30th day of September, or a registration is cancelled, the Superintendent may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he deems fair and reasonable be made and the Treasurer may make such refund. R.S.O. 1950, c. 332, s. 16. Refund

#### EXEMPTIONS

**18.** Registration shall not be required in respect of any trade in real estate by, Exemptions

- (a) an assignee, custodian, liquidator, receiver, trustee or other person acting under the *Bankruptcy Act* (Canada), *The Corporations Act*, *The Judicature Act*, the *Winding-up Act* (Canada), or to a person acting under the order of any court, or an executor or trustee selling under the terms of a will, marriage settlement or deed of trust; R.S.C. 1952, c. 14, R.S.O. 1960, cc. 71, 197 R.S.C. 1952, c. 296
- (b) an auctioneer where the trade is made in the course of and as part of his duties as auctioneer;

R.S.O. 1960,  
c. 363

(c) a person who is registered under *The Securities Act*, where the trade is made in the course of and as part of his business in connection with a trade in securities;

(d) a bank or a loan, trust or insurance company trading in real estate owned or administered by the company;

R.S.O. 1960,  
c. 241

(e) a person in respect of any mine or mining property within the meaning of *The Mining Act* or in respect of the real estate included in a Crown grant or lease of a mining claim or mineral lands under *The Mining Act* or any predecessor thereof;

(f) a full-time salaried employee of a party to a trade where the employee is acting for or on behalf of his employer;

(g) a person who is practising as a solicitor of the Supreme Court where the trade is made in the course of and as a part of the solicitor's practice;

(h) a person, on his own account, in respect of his real estate, where such trade did not result from,

(i) an offer of such person to act, in connection with such trade or any other trade, for or on behalf of the other party or one of the other parties to the trade, or

(ii) a request that such person act, in connection with such trade or any other trade, for or on behalf of the other party or one of the other parties to the trade,

and the interest of such person in the real estate was acquired prior to such offer or request; or

(i) a person specifically exempted by the regulations in respect of any class of trades in real estate. R.S.O. 1950, c. 332, s. 17, *amended*.

#### FORFEITURE OF BOND

Forfeiture  
of bond

**19.—**(1) Any bond mentioned in section 10 is forfeit and the amount thereof becomes due and owing by the person bound thereby as a debt due the Crown in right of Ontario,

(a) where a broker, including any member of a partnership or salesman, in respect of whose conduct the bond has been conditioned has been convicted of,

(i) an offence under this Act, or

- (ii) an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the *Criminal Code* (Canada); <sup>1953-54, c. 51 (Can.)</sup>
- (b) where judgment based on a finding of fraud has been given against the broker, including any member of a partnership, or salesman in respect of whose conduct the bond is conditioned; or
- (c) where proceedings by or in respect of a broker, including any member of a partnership, or salesman, in respect of whose conduct the bond is conditioned, have been taken under the *Bankruptcy Act* (Canada) <sup>R.S.C. 1952, c. 14</sup> or by way of winding up and a receiving order under the *Bankruptcy Act* (Canada) or a winding-up order has been made,

and such conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

(2) A bond may be cancelled by any person bound there- <sup>Cancellation of bond</sup> under by giving to the Registrar at least two months notice in writing of intention to cancel and it shall be deemed to be cancelled on the date stated in the notice, which date shall be not less than two months after the receipt of the notice by the Registrar.

(3) For the purposes of every act and omission occurring <sup>Term of bond</sup> during the period of registration or the period prior to cancellation under subsection 2, every bond shall continue in force and the collateral security, if any, shall remain on deposit for a period of two years after the lapse or cancellation of the registration to which it relates, or the cancellation of the bond, whichever occurs first. R.S.O. 1950, c. 332, s. 18.

**20.** Where a bond secured by the deposit of collateral <sup>Sale of collateral security</sup> security with the Treasurer of Ontario is forfeited under section 19, the Lieutenant Governor in Council may direct the Treasurer to sell the collateral security at the current market price. R.S.O. 1950, c. 332, s. 19.

**21.** Where Her Majesty becomes a creditor of a person <sup>Proceedings to enforce forfeiture</sup> in respect of a debt to the Crown arising from the provisions of section 19, the Superintendent may take such proceedings as he sees fit under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act* or the *Winding-up Act* (Canada) <sup>R.S.C. 1952, c. 14  
R.S.O. 1960, cc. 197, 71  
R.S.C. 1952, c. 296</sup> for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be. R.S.O. 1950, c. 332, s. 20, *amended*.

Assignment  
of bond or  
payment of  
moneys to  
creditors

**22.** The Lieutenant Governor in Council may direct the Treasurer of Ontario,

- (a) to assign any bond forfeited under section 19 and transfer the collateral security, if any;
- (b) to pay over any moneys recovered under such bond; or
- (c) to pay over any moneys realized from the sale of the collateral security under section 20,

to any person, or to the Accountant of the Supreme Court in trust for such persons as may become, in respect of claims arising out of trades in real estate, judgment creditors of the person bonded or who deposited the securities, as the case may be, or to any trustee, custodian, interim receiver, receiver or liquidator of such person, as the case may be. R.S.O. 1950, c. 332, s. 21; 1952, c. 90, s. 1.

Where no  
claims  
against  
proceeds of  
bond

**23.** Where a bond has been forfeited under section 19 by reason of a conviction or judgment under clause *a* or *b* of subsection 1 thereof and the Superintendent has not, within two years of such conviction or judgment becoming final, or of the broker or salesman in respect of whom the bond was furnished ceasing to carry on business as such, whichever occurs first, received notice in writing of any claim against the proceeds of the bond or of such portion thereof as remains in the possession of the Treasurer of Ontario, the Lieutenant Governor in Council may direct the Treasurer to pay such proceeds or portion thereof to the broker or salesman or to any person who upon forfeiture of the bond made any payments thereunder, after first deducting the amount of any expenses that have been incurred in connection with any investigation or otherwise relating to such broker or salesman. R.S.O. 1950, c. 332, s. 22.

#### INVESTIGATION AND ACTION BY SUPERINTENDENT

Order to  
investigate

**24.—(1)** Where upon a statement made under oath it appears probable to the Superintendent that a person has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in real estate,

1953-54,  
c. 51 (Can.)

the Superintendent may appoint the Registrar or any other person to make such investigation as he deems expedient for the due administration of this Act and any such order shall determine and prescribe the scope of the investigation.

(2) For the purposes of any such investigation, the person appointed to make the investigation may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person and into any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person. Scope of investigation

(3) For the purposes of any such investigation, the person making the investigation has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, but Power to summon witnesses and require production

(a) the rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses do not apply;

(b) no person is entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;

(c) no person shall refuse to answer any question upon any ground of privilege, except that a solicitor shall not be required to disclose any communications between himself and his client; and

(d) no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operations of this section. R.S.O. 1960, c. 125

(4) The person appointed to make any such investigation may seize and take possession of any documents, records, securities or other property of the person whose affairs are being investigated. Seizure of property

(5) Where any such investigation is ordered, the Superintendent may appoint an accountant or other expert to examine documents, records, properties and matters of the person whose affairs are being investigated. Accountant; other experts

(6) Every person appointed under subsection 1 or 5 shall report the result of his investigation or examination to the Superintendent. R.S.O. 1950, c. 332, s. 23. Report of investigation

Report to  
Attorney  
General

**25.** Where upon the report of an investigation made under section 24 it appears to the Superintendent that a person may have,

(a) contravened any of the provisions of this Act or the regulations; or

1953-54,  
c. 51 (Can.)

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to real estate,

the Superintendent shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Superintendent relating thereto, to the Attorney General. R.S.O. 1950, c. 332, s. 24.

Investigation  
under  
order of  
Attorney  
General

**26.** Notwithstanding section 24, the Attorney General may by order appoint any person, including the Superintendent or the Registrar, to make an investigation into any matter relating to a trade in real estate, in which case the person so appointed has for the purposes of the investigation the same authority, powers, rights and privileges as a person appointed under section 24. R.S.O. 1950, c. 332, s. 25.

Evidence  
not to be  
disclosed

**27.** No person, other than the Superintendent, the Registrar, a person appointed by the Superintendent under section 24 or a person appointed by the Attorney General under section 26, shall, without the consent of one of them, disclose any information or evidence obtained or the name of any witness examined or sought to be examined under section 24 or 26. R.S.O. 1950, c. 332, s. 26.

Reporting to  
Attorney  
General,  
publication  
of report

**28.** Where an investigation has been made under section 24, the Superintendent may, and, where an investigation has been made under section 26, the person making the investigation shall, report the result thereof including the evidence, findings, comments and recommendations to the Attorney General, and the Attorney General may cause the report to be published in whole or in part in such manner as he deems proper. R.S.O. 1950, c. 332, s. 27.

Order to  
hold or  
refrain from  
dealing with  
funds

**29.—(1)** The Superintendent may,

(a) where he is about to investigate or during or after the investigation of a person under section 24 or 26; or

(b) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a person



that in the opinion of the Superintendent are connected with or arise out of a trade in real estate or out of any business conducted by such person,

in writing or by telegram direct any person having on deposit or under control or for safe keeping any funds or securities of the person referred to in clause *a* or *b*, to hold such funds or securities or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such funds or securities from any other person having any of them on deposit, under control or for safe keeping or to hold such funds or securities of clients or others in his possession or control in trust for an interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, or the *Winding-up Act* (Canada), or until the Superintendent in writing revokes such direction or consents to release any particular fund or security from the direction, but, in the case of a bank, loan or trust company, the direction only applies to the offices, branches or agencies thereof named in the direction.

R.S.C. 1952,  
c. 14  
R.S.O. 1960,  
cc. 197, 71  
R.S.C. 1952,  
c. 296

(2) A person in receipt of a direction under subsection 1, if in doubt as to the application of the direction to any funds or security, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge of the Supreme Court who may direct the disposition of such funds or security and may make such order as to costs as seems just.

Application  
for direction

(3) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Superintendent may in writing or by telegram notify any registrar of deeds, master of titles or local master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Superintendent may in writing revoke or modify the notice. R.S.O. 1950, c. 332, s. 28, *amended*.

Notice to  
registrars of  
deeds or  
masters of  
titles

## APPEALS

**30.** A notice of every direction, decision, order or ruling of the Superintendent granting or refusing to grant registration or renewing, refusing to renew, suspending, cancelling or changing the registration of a broker or salesman shall be served upon the applicant, broker or salesman whose registration is thereby affected at the address appearing in the application or upon the records of the Registrar. R.S.O. 1950, c. 332, s. 29.

Notice of  
direction,  
decision,  
etc.

Review by  
Superin-  
tendent

**31.**—(1) An applicant, broker or salesman whose registration is affected by a direction, decision, order or ruling referred to in section 30 may, by notice in writing served upon the Registrar within thirty days after the mailing of the notice, request a hearing and review by the Superintendent of the direction, decision, order or ruling.

Notice of  
hearing

(2) Where a hearing and review is requested under subsection 1, the Registrar shall send a notice in writing of the time and place thereof to the person requesting the hearing and review stating the date and place thereof.

Evidence

(3) Upon a review, the Superintendent may hear such evidence as is submitted to him by the person requesting the review or by any other person and which in the opinion of the Superintendent is relevant to the review but he is not bound by the technical rules of evidence and all oral evidence submitted shall be taken down in writing and such evidence together with such documentary evidence and things as are received in evidence by the Superintendent forms the record.

Power on  
review

(4) Upon a review, the Superintendent may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as he deems proper.

Notice

(5) Notice of the order made upon a review shall be sent forthwith to the person requesting the review. R.S.O. 1950, c. 332, s. 30.

Appeal to  
Supreme  
Court

**32.**—(1) Where the Superintendent has reviewed a direction, decision, order or ruling under section 31, the person who requested the review may appeal to a justice in appeal of the Supreme Court.

Form of  
appeal

(2) Every appeal shall be by notice of motion served upon the Registrar within thirty days after the mailing of the notice under subsection 5 of section 31 and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, but the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure applicable to appeals under this Act.

Certificate  
of Registrar

(3) The Registrar shall certify to the Registrar of the Supreme Court,

- (a) the direction, decision, order or ruling that has been reviewed by the Superintendent;
- (b) the order of the Superintendent upon the review, together with any statement of reasons therefor;

- (c) the record of the review; and
- (d) all written submissions to the Superintendent or other material that in the opinion of the Registrar are relevant to the appeal.

(4) The Attorney General may designate counsel to <sup>Counsel</sup> assist the court upon the hearing of an appeal under this section. R.S.O. 1950, c. 332, s. 31.

**33.** Where an appeal is taken under section 32, the court <sup>Order of court</sup> may by its order direct the Superintendent to make such direction, decision, order or ruling or to do such other act as the Superintendent is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to this Act and the regulations, and the Superintendent shall make such direction, decision, order or ruling or do such act accordingly. R.S.O. 1950, c. 332, s. 32.

**34.** An order of the court is final and there is no appeal <sup>Further direction, etc.</sup> therefrom, but, notwithstanding the order, the Superintendent has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to sections 30 to 33. R.S.O. 1950, c. 332, s. 33.

#### REGULATION OF TRADING

**35.—(1)** Every broker shall keep a sales record sheet in <sup>Books, etc. to be kept</sup> the prescribed form and proper books and accounts with respect to his trades and shall enter therein in the case of each trade,

- (a) the nature of the trade;
- (b) a description of the real estate involved sufficient to identify it;
- (c) the true consideration for the trade;
- (d) the names of all parties to the trade;
- (e) the amount of deposit received and a record of the disbursement thereof; and
- (f) the amount of his commission or other remuneration and the name of the party paying it.

(2) Every broker shall maintain a trust account for every <sup>Trust ledger</sup> person from whom trust moneys are received in which shall be entered full details of all trust moneys so received and disbursements therefrom. R.S.O. 1950, c. 332, s. 34.

Bank  
account

**36.** Every broker shall maintain an account designated as a trust account in a chartered bank, loan or trust company or Province of Ontario Savings Office in which shall be deposited all moneys that come into his hands in trust for other persons in connection with his business, and he shall at all times keep such moneys separate and apart from moneys belonging to himself or to the partnership, in the case of a partnership, and shall disburse such moneys only in accordance with the terms of the trust. R.S.O. 1950, c. 332, s. 35; 1952, c. 90, s. 2.

Inspection  
of books,  
accounts,  
etc.

**37.—(1)** The Registrar may at any time make an inspection of the books, documents and records of any broker.

Free  
access  
to books,  
etc.

(2) Upon such an inspection, the Registrar is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the broker, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing reasonably required by the Registrar for the purposes of the inspection. R.S.O. 1950, c. 332, s. 36.

Certificate  
as to  
financial  
position

**38.** Every broker shall, when required by the Superintendent, file a certificate satisfactory to the Superintendent as to his financial position signed by an accountant approved by the Superintendent and by the broker or, in the case of a partnership, by all the members of the partnership. R.S.O. 1950, c. 332, s. 37.

Action for  
commission  
or  
remuneration

**39.** No action shall be brought for commission or for remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action was registered or exempt from registration and the court may stay any such action at any time upon summary application R.S.O. 1950, c. 332, s. 38.

Idem

**40.** Subject to section 50, no action shall be brought to charge any person for the payment of a commission or other remuneration for the sale, purchase, exchange or leasing of real estate,

- (a) unless the agreement upon which the action is brought is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized; or
- (b) unless the broker or his salesman has obtained an offer in writing that is accepted; or
- (c) unless the broker having been authorized in writing to list the property,

- (i) shows the property to the purchaser, or
- (ii) introduces the purchaser to the vendor for the purpose of discussing the proposed sale, purchase, exchange or leasing. R.S.O. 1950, c. 332, s. 39; 1957, c. 106, s. 4.

**41.** No broker or salesman shall, as an inducement to purchase, sell or exchange real estate, make any representation or promise that he or any other person will, Promises to re-sell, etc., prohibited

- (a) re-sell or in any way guarantee or promise to re-sell any real estate offered for sale by him;
- (b) purchase or sell any of the purchaser's real estate;
- (c) procure a mortgage, extension of a mortgage, lease or extension of a lease; or
- (d) purchase or sell a mortgage or procure a loan,

unless at the time of making the representation or promise the broker or salesman making it delivers to the person to whom the representation or promise is made a statement signed by the broker or salesman clearly setting forth all the details of the representation or promise made. 1957, c. 106, s. 5.

**42.** A broker carrying on business alone and not through an incorporated company shall carry on business in his own name only and shall not use any description, words or device that would indicate that his business is being carried on by more than one person or by a company, but a surviving or remaining partner may carry on business in the name of the original partnership in which case he shall publish on all letter-heads and circulars used by him in connection with his business the fact that he is the sole proprietor thereof. R.S.O. 1950, c. 332, s. 41. Carrying on business as individual

**43.** No broker or salesman shall trade in real estate until notified in writing by the Registrar that he is registered. R.S.O. 1950, c. 332, s. 42. Broker not to trade until notified of registration

**44.** A person who is not registered as a broker shall neither directly nor indirectly hold himself out as being a broker and a person who is not registered as a salesman shall neither directly nor indirectly hold himself out as being a salesman. 1954, c. 82, s. 4. Unregistered broker and salesman

**45.** Every partnership and incorporated company registered as a broker shall publish the names of every person having an interest either directly or indirectly to the extent of not less than 10 per cent in the capital of the partnership or Names of officers

company, as the case may be, on all letterheads and circulars in which the name of the partnership or company appears. R.S.O. 1950, c. 332, s. 44.

**Advertising**

**46.** Every broker shall, when advertising to purchase, sell, exchange or lease real estate, clearly indicate his own name as being the party advertising and that he is a broker, and any reference to the name of a salesman in the advertisement shall clearly indicate the broker as being the employer of the salesman. R.S.O. 1950, c. 332, s. 45.

**Employment of unregistered person or salesman of other broker**

**47.** No broker shall employ, permit or engage the salesman of another broker or an unregistered person to trade in real estate nor shall a broker pay commission or other remuneration to such a salesman or person. R.S.O. 1950, c. 332, s. 46.

**Salesmen trading for other brokers**

**48.** No salesman shall trade in real estate on behalf of any broker other than the broker who, according to the records of the Superintendent, is his employer, and no salesman is entitled to or shall accept any commission or other remuneration for trading in real estate from any person except the broker who is registered as his employer. R.S.O. 1950, c. 332, s. 47.

**Purchase of listed real estate by broker or salesman**

**49.** No broker or salesman shall purchase for himself or make an offer to purchase for himself either directly or indirectly real estate listed with him for sale, nor shall he acquire any interest therein, either directly or indirectly, until he has clearly disclosed to the listing owner complete details of his negotiations for the sale of the real estate to any other person. R.S.O. 1950, c. 332, s. 48.

**Breaking of contract prohibited**

**50.—(1)** No broker or salesman shall induce any party to a contract for sale or rental of real estate to break the contract for the purpose of entering into another such contract.

**Commission**

**(2)** Unless agreed to in writing by the vendor, no broker is entitled to claim commission from him in respect of a trade in real estate if the real estate is to the knowledge of the broker covered by an unexpired exclusive listing agreement with another broker. 1957, c. 106, s. 6.

**Statements to be delivered in purchase of business**

**51.—(1)** Where a trade in a business is negotiated by a broker or his salesman, the broker or his salesman, as the case may be, shall before a binding agreement of purchase and sale is signed by the parties deliver to the person acquiring the business,

(a) a profit and loss statement or statement showing the revenue and disbursements of the business during the

preceding twelve months or since the acquisition of the business by the person disposing of it; and

- (b) a statement of the assets and liabilities of the business; and
- (c) a statement containing a list of all fixtures, goods, chattels, rights and other assets relating to or connected with the business that are not included in the transaction,

and every such statement shall be signed by the person disposing of the business or his agent lawfully authorized in that behalf. R.S.O. 1950, c. 332, s. 50 (1); 1957, c. 106, s. 7 (1).

(2) Where the broker or salesman, as the case may be, <sup>Waiver</sup> delivers to the person acquiring the business a statement under oath of the person disposing of the business setting forth,

- (a) the terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on; and
- (b) the terms and conditions under which the person disposing of the business has sublet a part of the premises in which the business is being carried on; and
- (c) all liabilities of the business; and
- (d) that the person disposing of the business has made available such books of account of the business as he possesses for inspection by the person acquiring the business, or that the person disposing of the business has no books of account of the business, as the case may be,

the person acquiring the business may waive compliance with clauses *a* and *b* of subsection 1 by signing and delivering to the broker or salesman, as the case may be, a statement that he has received and read the statement under oath of the person disposing of the business. R.S.O. 1950, c. 332, s. 50 (2); 1957, c. 106, s. 7 (2).

(3) Unless the statement mentioned in clause *c* of subsection 1 is delivered in accordance with subsection 1, all fixtures, goods, chattels and rights and other assets relating to or connected with the business shall be deemed to be included in the transaction. <sup>What to be deemed included in transaction</sup> R.S.O. 1950, c. 332, s. 50 (3).

**52.—**(1) No broker or salesman shall request or enter into an arrangement for the payment to him of commission or other remuneration based on the difference between the price at <sup>Type of commission prohibited</sup>

which real estate is listed for sale and the actual sale price thereof, nor is a broker or salesman entitled to retain any commission or other remuneration computed upon any such basis.

Commission  
and remun-  
eration,  
scale

(2) All commission or other remuneration payable to a broker in respect of a trade in real estate shall be upon an agreed amount or percentage of the sale price or rental, as the case may be, and, where no agreement as to the amount of the commission has been entered into, the rate of commission or other basis or amount of remuneration shall be that generally prevailing in the community where the real estate is situate. R.S.O. 1950, c. 332, s. 51.

Agreement  
to list real  
estate with  
broker

**53.**—(1) Every broker and salesman shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the broker, deliver to the person who has signed the agreement a true copy thereof. R.S.O. 1950, c. 332, s. 52 (1); 1957, c. 106, s. 8 (1).

Expiry of  
agreement

(2) An agreement with a broker to list real estate for sale, exchange, lease or rental is not valid,

- (a) if it does not contain a provision that it will expire on a certain date specified therein;
- (b) if it contains a provision for more than one date on which it may expire; or
- (c) if a true copy of it is not delivered by the broker or his salesman to the other party immediately after its execution. 1957, c. 106, s. 8 (2).

Agreements  
to sell,  
purchase,  
etc.

**54.** Where a broker or salesman has secured an acceptance of an offer to sell, purchase, exchange, lease or rent real estate, he shall require each of the parties to sign a sufficient number of copies of the agreement and he shall retain one signed copy and shall forthwith deliver one signed copy to each of the parties. R.S.O. 1950, c. 332, s. 53.

#### OFFENCES

Penalties

**55.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 for a first offence and not more than \$2,000 for a subsequent offence and, in case of either a first or a subsequent offence, either in default of payment of any fine imposed or in addition to such fine, to imprisonment for a term of not more than six months. R.S.O. 1950, c. 332, s. 54.



**56.**—(1) No proceedings to recover the fines provided in <sup>Proceedings to recover fines</sup> section 55 shall be instituted except with the written consent of the Attorney General.

(2) No proceedings to recover the fines provided by section <sup>Idem</sup> 55 shall be instituted except within two years after the alleged offence was committed. R.S.O. 1950, c. 332, s. 55.

#### GENERAL

**57.** Except with the consent of the Attorney General, no <sup>No action without consent</sup> action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lie or shall be instituted against a person, whether in his public or private capacity, in respect of an act or omission in connection with the administration or carrying out of this Act or the regulations where such person is the Superintendent or his representative, or the Registrar, or where such person was proceeding under the written or verbal direction or consent of any one of them or under an order of the Attorney General made under this Act. R.S.O. 1950, c. 332, s. 56.

**58.** The Lieutenant Governor in Council may make regu- <sup>Regulations</sup>lations,

- (a) prescribing any class of trades in real estate or of real estate brokers or salesmen that shall be exempt from all or any of the provisions of this Act;
- (b) prescribing the amount and form of bonds to be furnished under this Act;
- (c) prescribing the classes of negotiable securities that may be accepted as collateral security for a bond;
- (d) prescribing the fees payable upon applications for registration and renewal of registration and any other fees in connection with the administration of this Act and the regulations;
- (e) prescribing the practice and procedure upon investigations under sections 24 and 26;
- (f) prescribing forms and providing for their use;
- (g) providing for the examination of applicants for registration and renewal of registration;
- (h) prescribing the form and contents of the list of persons registered under this Act that is to be prepared by the Registrar and the date of publication thereof and governing its distribution;

- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 332, s. 57.

Certificate  
as evidence

**59.** A statement as to the registration or non-registration of a person under this Act purporting to be certified by the Superintendent or Registrar, without proof of the office or signature of the person certifying, is receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1950, c. 332, s. 58.

List of  
registered  
persons  
to be  
published

**60.** The Registrar may, from time to time, prepare, publish and distribute a list of all persons registered under this Act. R.S.O. 1950, c. 332, s. 59; 1957, c. 106, s. 9.

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## CHAPTER 345

## The Reciprocal Enforcement of Judgments Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “judgment” means a judgment or an order of a court in any civil proceedings whereby any sum of money is payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the province or territory where it was made, become enforceable in the same manner as a judgment given by a court therein;
- (b) “judgment creditor” means the person by whom the judgment was obtained, and includes the executors, administrators, successors and assigns of that person;
- (c) “judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given;
- (d) “original court”, in relation to a judgment, means the court by which the judgment was given;
- (e) “registering court”, in relation to a judgment, means the court in which the judgment is registered under this Act.

(2) Subject to the rules of court, any of the powers conferred by this Act on a court may be exercised by a judge of the court. R.S.O. 1950, c. 333, s. 1.

2.—(1) Where a judgment of a superior, county or district court has been obtained outside Ontario in any other province or territory of Canada to which this Act applies, the judgment creditor may apply to a judge of the Supreme Court at any time within six years after the date of the judgment to have the judgment registered in that court, and on any such application the court may, subject to this Act, order the judgment to be registered accordingly.

Registration  
of judgment

(2) Reasonable notice of the application shall be given to the judgment debtor in all cases in which he was not personally served with process in the original action and did not appear or defend or otherwise submit to the jurisdiction of the original court, but in all other cases the order may be made *ex parte*.

Notice of  
application  
to register

Registration  
of judgment

(3) The judgment may be registered by filing with the registrar or clerk of the registering court an exemplification or a certified copy of the judgment, together with the order for such registration, whereupon the judgment shall be entered as a judgment of the registering court. R.S.O. 1950, c. 333, s. 2.

Conditions  
of registra-  
tion

**3.** No judgment shall be ordered to be registered under this Act if it is shown to the registering court that,

- (a) the original court acted without jurisdiction; or
  - (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court; or
  - (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
  - (d) the judgment was obtained by fraud; or
  - (e) an appeal is pending, or the judgment debtor is entitled and intends to appeal against the judgment; or
  - (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason would not have been entertained by the registering court; or
  - (g) the judgment debtor would have a good defence if an action were brought on the original judgment.
- R.S.O. 1950, c. 333, s. 3.

Effect of  
registration

**4.** Where a judgment is registered under this Act,

- (a) the judgment is, as from the date of the registration, of the same force and effect and, subject to this Act, proceedings may be taken thereon as if it had been a judgment originally obtained or entered up in the registering court on the date of the registration; and
- (b) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself; and

- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court, and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment, such costs to be first taxed by the proper officer of the registering court, and his certificate thereof endorsed on the order for registration. R.S.O. 1950, c. 333, s. 4.

**5.** In all cases in which registration is made upon an *ex parte* order, notice thereof shall be given to the judgment debtor within one month after the registration, and the notice shall be served in the manner provided by the practice of the registering court for service of writs of process, or of notice of proceedings, and no sale under the judgment of any property of the judgment debtor is valid if made prior to the expiration of the period fixed by section 6 or such further period as the court orders. R.S.O. 1950, c. 333, s. 5.

**6.** In all cases in which registration is made upon an *ex parte* order, the registering court may on the application of the judgment debtor set aside the registration upon such terms as the court thinks fit, and such application shall be made within one month after the judgment debtor has notice of the registration, and the applicant is entitled to have the registration set aside upon any of the grounds mentioned in section 3. R.S.O. 1950, c. 333, s. 6.

**7.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules of court for regulating the practice and procedure, including costs, in respect of proceedings of any kind under this Act. R.S.O. 1950, c. 333, s. 7.

**8.** Where the Lieutenant Governor is satisfied that reciprocal provision has been or will be made by any other province or territory of Canada for the enforcement within that province or territory of judgments obtained in any superior, county or district court of Ontario, the Lieutenant Governor may direct that this Act applies to that province or territory, and thereupon this Act applies accordingly. R.S.O. 1950, c. 333, s. 8.

**9.** Nothing in this Act deprives any judgment creditor of the right to bring an action for the recovery of the amount of his judgment instead of proceeding under this Act. R.S.O. 1950, c. 333, s. 9.

(NOTE.—As of August 1, 1960, this Act applied to Alberta, British Columbia, Manitoba, New Brunswick, Saskatchewan and the Northwest Territories.)



## CHAPTER 346

**The Reciprocal Enforcement of Maintenance Orders Act****1. In this Act,**Interpre-  
tation

- (a) "certified copy", in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy;
- (b) "court" means an authority having statutory jurisdiction to make maintenance orders;
- (c) "maintenance order" means an order of certificate of a court for the periodical payment of money as alimony or as maintenance;
- (d) "reciprocating state" means a state declared under section 14 to be a reciprocating state. 1959, c. 88, s. 1.

**2.—(1)** Where a maintenance order has been made against a person by a court in a reciprocating state and a certified copy of the order has been transmitted by the proper officer of the reciprocating state to the Attorney General, the Attorney General shall send a certified copy of the order for registration to the proper officer of a court in Ontario and on receipt thereof the order shall be registered.

Registration  
in Ontario of  
orders made  
elsewhere

(2) The court in Ontario in which an order is to be registered shall, if the court in the reciprocating state by which the order was made was a court of superior jurisdiction, be the Supreme Court and, if that court was not a court of superior jurisdiction, be such court in Ontario as is determined by the Attorney General.

Court in  
which  
orders are  
to be  
registered

(3) An order registered under subsection 1 has from the date of its registration the same force and effect and, subject to this Act, all proceedings may be taken thereon as if it had been an order originally obtained in the court in which it was so registered and that court has power to enforce the order and its officers shall take all proper steps so to do.

Effect of  
registration

(4) A copy of an order registered in the Supreme Court under subsection 1 may be filed in the juvenile and family court having jurisdiction where the person ordered to pay the alimony or maintenance resides and, when so filed, it shall be

Filing of  
orders in  
juvenile  
and family  
courts

R.S.O. 1960,  
c. 105

Conversion  
to  
Canadian  
currency

enforced in the same manner as an order made in that court under *The Deserted Wives' and Children's Maintenance Act*.

(5) A maintenance order that makes payable sums of money expressed in a currency other than the currency of Canada shall not be registered under subsection 1 until the court in which it is sought to be registered, or, where that court is the Supreme Court, the registrar of that court, has determined the equivalent of the sums so payable in the currency of Canada on the basis of the rate of exchange prevailing on the date on which the order was made as ascertained from any branch of any chartered bank, and the court or the registrar, as the case may be, shall certify on the order the sums so determined expressed in the currency of Canada, and the order when registered shall be deemed to be an order for the payment of the sums so certified. 1959, c. 88, s. 2.

Transmis-  
sion of  
orders  
made in  
Ontario

3. Where a court in Ontario has made a maintenance order and it is proved to the court in Ontario that the person against whom the order was made is resident in a reciprocating state, the court in Ontario shall, on the request of the person in whose favour the order was made, send a certified copy of the order to the Attorney General for transmission to the proper officer of the reciprocating state. 1959, c. 88, s. 3.

Provisional  
order  
against  
person  
residing  
outside  
Ontario

4.—(1) Where an application is made to a court in Ontario for a maintenance order and it is proved to the court in Ontario that the person against whom the order was made is resident in a reciprocating state, the court in Ontario may, in the absence of that person and without service of notice on him, if after hearing the evidence it is satisfied of the justice of the application, make any maintenance order that it might have made if a summons had been duly served on that person and he had failed to appear at the hearing, but an order so made is provisional only and has no effect until it is confirmed by a court in the reciprocating state.

Depositions  
and  
transcripts

(2) Where the evidence of a witness who is examined on an application mentioned in subsection 1 is not taken in shorthand, the evidence shall be put into the form of a deposition and the deposition shall be read over and signed by the witness and the person presiding at the hearing.

Preparation  
of state-  
ments and  
transmission  
of  
documents to  
Attorney  
General

(3) Where a provisional order has been made under subsection 1,

(a) the court shall prepare,

- (i) a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order



was made had been duly served with a summons and had appeared at the hearing, and

- (ii) a statement showing the information that the court possesses for facilitating the identification of the person against whom the order was made and ascertaining his whereabouts; and

- (b) the court shall send to the Attorney General for transmission to the proper officer of the reciprocating state,

- (i) a certified copy of the order,
  - (ii) the depositions or a certified copy of the transcript of the evidence, and
  - (iii) the statements referred to in clause a.

(4) Where a provisional order made under this section has come before a court in a reciprocating state for confirmation and the order has by that court been remitted to the court in Ontario that made the order for the purpose of taking further evidence, the court in Ontario shall, after giving the notice prescribed by the rules, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application. Power to take new evidence on renvoy

(5) Where upon the hearing of the evidence taken under subsection 4 it appears to the court in Ontario that the order ought not to have been made, the court in Ontario may rescind the order, but in any other case the depositions or a certified copy of the transcript of the evidence shall be sent to the Attorney General and dealt with in like manner as the depositions or transcript of the original evidence. Further powers on renvoy

(6) The confirmation of a provisional order made under this section does not affect any power of the court in Ontario that originally made the order to vary or rescind the order, but an order varying an original order has no effect until it is confirmed in like manner as the original order. Power of original court to vary or rescind

(7) Where, after a provisional order made under this section is confirmed, the court in Ontario that originally made the order makes a varying or rescinding order, that court shall send a certified copy thereof, together with the depositions or a certified copy of the transcript of any new evidence adduced before the court, to the Attorney General for transmission to the proper officer of the reciprocating state in which the original order was confirmed. Transmission of varying or rescinding order

(8) An applicant for a provisional order under this section has the same right of appeal, if any, against a refusal to make the order as he would have had against a refusal to make a Right of appeal

maintenance order if a summons had been duly served on the person against whom the order is sought to be made. 1959, c. 88, s. 4.

Confirmation  
of orders  
made  
outside  
Ontario

5.—(1) Where,

- (a) a maintenance order has been made by a court in a reciprocating state and the order is provisional only and has no effect until confirmed by a court in Ontario; and
- (b) a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed if the person against whom the order was made had been a party to the proceedings, is received by the Attorney General; and
- (c) it appears to the Attorney General that the person against whom the order was made is resident in Ontario,

the Attorney General may send the documents to the proper officer of the Supreme Court if the court in the reciprocating state by which the order was made was a court of superior jurisdiction or to such court as is determined by the Attorney General, if the court in the reciprocating state by which the order was made was not a court of superior jurisdiction, and upon receipt of the documents the court shall issue a summons calling upon the person against whom the order was made to show cause why the order should not be confirmed, and cause it to be served upon such person.

Right of  
defence on  
application  
for  
confirmation

(2) At a hearing under this section, the person on whom the summons was served may raise any defence that he might have raised in the original proceedings if he had been a party thereto, but no other defence, and the statement from the court that made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings is conclusive evidence that those grounds are grounds on which objection may be taken.

Power to  
confirm  
with or  
without  
modification

(3) Where, at a hearing under this section, the person who was served with the summons does not appear or, having appeared, fails to satisfy the court in Ontario that the order ought not to be confirmed, the court in Ontario may confirm the order, either without modification or with such modifications as the court, after hearing the evidence, considers just.

Power to  
remit to  
court that  
made  
provisional  
order

(4) Where the person against whom a summons was issued under this section appears at the hearing and satisfies the court in Ontario that, for the purpose of any defence, it is

necessary to remit the case to the court in the reciprocating state that made the provisional order for the taking of further evidence, the court in Ontario may so remit the case and adjourn the proceedings for the purpose.

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the court in Ontario that confirmed it and, where on an application for variation or rescission the court in Ontario is satisfied that it is necessary to remit the case to the court in the reciprocating state that made the order for the purpose of taking further evidence, the court in Ontario may so remit the case and adjourn the proceedings for the purpose.

Variation or  
rescission  
of order  
that has  
been  
confirmed

(6) Where an order has been confirmed under this section, the person bound thereby has the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order if the order had been made by the court in Ontario that confirmed the order.

Right of  
appeal

(7) An order confirmed under this section has from the date of its confirmation the same force and effect and, subject to this Act, all proceedings may be taken thereon as if it had been an order originally obtained in the court in Ontario in which it was so confirmed and that court has power to enforce the order and its officers shall take all proper steps so to do.

Effect of  
confirmation

(8) Where a provisional order sought to be confirmed under this section makes payable sums of money expressed in a currency other than the currency of Canada, the confirming court, or, where that court is the Supreme Court, the registrar of that court, shall determine the equivalent of the sums so payable in the currency of Canada on the basis of the rate of exchange prevailing on the date on which the provisional order was made as ascertained from any branch of any chartered bank, and the confirming court or the registrar, as the case may be, shall certify on the order when confirmed the sums so determined expressed in the currency of Canada, and the order when confirmed shall be deemed to be an order for the payment of the sums so certified. 1959, c. 88, s. 5.

Conversion  
to Canadian  
currency

6. Where under this Act a document is sent to the Attorney General for transmission to the proper officer of a reciprocating state, the Attorney General shall transmit the document accordingly. 1959, c. 88, s. 6.

Transmission  
of document  
by Attorney  
General to  
reciprocating  
state

7. The determination of a court by the Attorney General does not prevent him from determining another court with respect to the same order. 1959, c. 88, s. 7.

Determina-  
tion of  
court by  
Attorney  
General

Forms,  
rules of  
practice

**8.** The Lieutenant Governor in Council may prescribe forms and make rules prescribing the practice and procedure, including costs, under this Act. 1959, c. 88, s. 8.

Proof of  
documents  
signed by  
officer  
of court

**9.** A document purporting to be signed by a judge or officer of a court in a reciprocating state shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document. 1959, c. 88, s. 9.

Depositions,  
etc., to be  
evidence

**10.** Depositions or transcripts of evidence taken in a court in a reciprocating state for the purposes of this Act may be received in evidence in the courts in Ontario. 1959, c. 88, s. 10.

Language

**11.** Where a maintenance order sought to be registered in a court in Ontario or a provisional order sought to be confirmed by a court in Ontario under this Act or any accompanying document is in a language other than the English language, the certified copy of the maintenance order or the provisional order, as the case may be, and any accompanying document shall have attached a translation in the English language certified as being a true translation by the court in the reciprocating state that made the order, in which case the order and any accompanying document shall be deemed to be in the English language. 1959, c. 88, s. 11.

Terminology

**12.** Where a maintenance order sought to be registered in a court in Ontario or a provisional order sought to be confirmed by a court in Ontario under this Act or any accompanying document uses terminology different from the terminology used in Ontario, the difference shall not vitiate any proceedings under this Act. 1959, c. 88, s. 12.

Saving

**13.** Nothing in this Act deprives a person of the right to obtain a maintenance order instead of proceeding under this Act. 1959, c. 88, s. 13.

Designation  
of recipro-  
cating states

**14.** Where the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by a state in or outside Canada for the enforcement in that state of maintenance orders made in Ontario, the Lieutenant Governor in Council may by order declare that state to be a reciprocating state for the purposes of this Act. 1959, c. 88, s. 14.

NOTE.—*As of August 1, 1960, the following are declared to be reciprocating states for the purposes of this Act:*

1. The following Provinces and Territories of Canada:
    - i. Alberta
    - ii. British Columbia
    - iii. Manitoba
    - iv. New Brunswick
    - v. Newfoundland
    - vi. Northwest Territories
    - vii. Nova Scotia
    - viii. Prince Edward Island
    - ix. Quebec
    - x. Saskatchewan
    - xi. Yukon
  2. The following State of the United States of America:
    - i. Michigan
  3. The following States and Territories of Australia:
    - i. Capital Territory of Australia
    - ii. New South Wales
    - iii. Northern Territory of Australia
    - iv. Queensland
    - v. South Australia
    - vi. Tasmania
    - vii. Victoria
    - viii. Western Australia
  4. England
  5. Guernsey, Alderney and Sark
  6. Isle of Man
  7. Malta and its Dependencies
  8. New Zealand and the Cook Islands
  9. Northern Ireland
  10. Papua and New Guinea
  11. Southern Rhodesia
  12. States of Jersey
  13. Union of South Africa
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## CHAPTER 347

## The Reformatories Act

- 1.** In this Act, Interpretation
- (a) "county" includes a district;
  - (b) "Deputy Minister" means the Deputy Minister of Reform Institutions;
  - (c) "inspector" means an inspector appointed under *The Penal and Reform Institutions Inspection Act*; R.S.O. 1960, c. 291
  - (d) "Minister" means the Minister of Reform Institutions. R.S.O. 1950, c. 335, s. 1; 1960, c. 101, s. 1.
- 2.** The Lieutenant Governor in Council may maintain one Maintenance or more reformatories for Ontario. R.S.O. 1950, c. 335, s. 2.
- 3.** The Lieutenant Governor in Council may appoint for Appointment of officers each reformatory a superintendent, a surgeon, a bursar, an accountant, a storekeeper and such other officers as are necessary. R.S.O. 1950, c. 335, s. 3; 1960, c. 101, s. 2.
- 4.** The Lieutenant Governor in Council may make regula- Regulations tions for the management and discipline of reformatories and for prescribing the duties and conduct of the superintendent, officers and employees therein, and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. R.S.O. 1950, c. 335, s. 4; 1960, c. 101, s. 3.
- 5.—(1)** The Deputy Minister may summarily suspend Power of Deputy Minister over officers any officer for misconduct, of which the Minister shall be at once notified, and the suspension shall continue until the pleasure of the Lieutenant Governor is known, and an inspector may, until such pleasure has been intimated to him, cause any such officer so suspended to be removed beyond the precincts of the reformatory. R.S.O. 1950, c. 335, s. 5 (1); 1960, c. 101, s. 4 (1).
- (2)** It is the duty of the Deputy Minister to recommend the Duty of Deputy Minister removal of any officer or employee whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the reformatory he deems injurious to the interests thereof, and the pay of every officer so suspended ceases during

the period of the suspension. R.S.O. 1950, c. 335, s. 5 (2); 1960, c. 101, s. 4 (2).

Transfer  
from com-  
mon jail  
to re-  
formatory  
R.S.O. 1960,  
c. 291

**6.** A male person confined in a common jail under sentence of imprisonment for an offence against any Act of the Legislature may by the direction and warrant of an officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* be transferred from the common jail to a reformatory for the unexpired portion of the term of imprisonment to which he was sentenced or committed, and he shall thereupon be imprisoned in a reformatory for the residue of the term and is subject to all the regulations of the reformatory. R.S.O. 1950, c. 335, s. 6; 1960, c. 101, s. 5.

Convicts  
may be  
sentenced  
to reforma-  
tory instead  
of common  
jail

**7.** The court before which a male person is convicted under any Act of the Legislature of an offence punishable by imprisonment in the common jail may sentence him to imprisonment in a reformatory. R.S.O. 1950, c. 335, s. 7, *revised*.

Transfer of  
prisoners

**8.** An officer designated under subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act* may by warrant direct the removal from a reformatory back to the common jail, or from an industrial school for boys or an industrial farm to a reformatory, of any person detained therein under the authority of any Act of the Legislature. R.S.O. 1950, c. 335, s. 8; 1960, c. 101, s. 6.

Officer to  
deliver up  
prisoners  
for removal

**9.** The superintendent of a reformatory, or the superintendent of an industrial school for boys, or of an industrial farm, or the keeper of a common jail, having the custody of any person ordered to be removed shall, when required so to do, deliver him up to the provincial bailiff or other officer or person who produces the warrant, together with a copy certified by the superintendent or jailer of the sentence or order of committal of such person and the date thereof as given to him on the reception of such person into his custody. R.S.O. 1950, c. 335, s. 9.

Superin-  
tendent to  
receive  
and detain  
prisoner

**10.** The superintendent shall receive into the reformatory every person certified to him as sentenced to imprisonment therein, or transferred thereto by warrant, and shall there detain him, subject to the rules, regulations and discipline thereof, until the term of his detention is completed or until he is otherwise discharged in due course of law. R.S.O. 1950, c. 335, s. 10.

Security  
by officers

**11.** The superintendent, the bursar, the accountant and every storekeeper and steward of a reformatory shall give



security to the satisfaction of the Minister and for such amount as he directs. R.S.O. 1950, c. 335, s. 12; 1960, c. 101, s. 8.

**12.**—(1) No officer or employee of the Department of Reform Institutions shall, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods or provisions for the use of a reformatory, or be concerned, directly or indirectly, in furnishing or supplying the same or in any contract relating thereto. R.S.O. 1950, c. 335, s. 13 (1); 1960, c. 101, s. 9. Officers not to be interested in any prison contract

(2) Every person who contravenes any of the provisions of this section is liable to a penalty of \$1,000. R.S.O. 1950, c. 335, s. 13 (2). Penalty

**13.** No officer or employee of the Department of Reform Institutions shall buy from or sell to any inmate in the reformatory anything whatever, or take or receive to his own use or for the use of any other person any fee, gratuity or emolument from any inmate or visitor or any other person, or employ any inmate in working for him. R.S.O. 1950, c. 335, s. 14; 1960, c. 101, s. 10. Officers not to trade, etc., in the reformatory

**14.**—(1) Except under the regulations, no morphia, cocaine or other narcotic drug, and no liquor within the meaning of *The Liquor Control Act* shall on any pretence whatever be brought into a reformatory for the use of any officer or employee or person in the institution or for the use of any inmate. Prohibition of liquors and drugs R.S.O. 1960 c. 217

(2) Every person, other than an officer of a reformatory acting under the regulations, who gives any morphia, cocaine or other narcotic drug or intoxicating liquor and every officer, employee or other person who gives or conveys tobacco in any form to any inmate is guilty of an offence and on summary conviction is liable to a fine of \$40. R.S.O. 1950, c. 335, s. 15. Offence

**15.** Every reformatory shall be furnished with all requisite means for carrying on beneficial labour by the inmates in shops and the various forms of labour having for their base clay, sand, gravel, stone, lime, agriculture, horticulture and dairying in all their various branches. R.S.O. 1950, c. 335, s. 16. Labour

**16.** A record of the conduct of the inmates of a reformatory shall be kept. R.S.O. 1950, c. 335, s. 17. Record of conduct to be kept

**17.** Every person sentenced directly to a reformatory shall be sentenced to imprisonment therein for a period of not Sentences

less than three months and for an indeterminate period thereafter of not more than two years less one day. R.S.O. 1950, c. 335, s. 18 (1).

Employment  
beyond the  
precincts

**18.**—(1) The Lieutenant Governor in Council may authorize, direct or sanction the employment of any inmate upon any specific work or duty beyond the limits of the reformatory. R.S.O. 1950, c. 335, s. 19 (1).

Conditions of  
employment

(2) Every such inmate during such employment is subject to all the provisions of this Act and the regulations and discipline of the reformatory. R.S.O. 1950, c. 335, s. 19 (2); 1960, c. 101, s. 12.

Inmates  
not to be  
discharged  
on a  
Sunday

**19.** When the term of imprisonment of an inmate expires on a Sunday, he shall be discharged on the previous Saturday unless he desires to remain until the following Monday. R.S.O. 1950, c. 335, s. 20.

Detention  
of diseased  
inmates

**20.** No inmate shall be discharged from a reformatory at the termination of his sentence if then labouring under any contagious or infectious disease or under any acute or dangerous illness, but he shall be permitted to remain in the reformatory until he recovers from such disease or illness, and any inmate so remaining is under the same discipline and control as if his sentence were unexpired. R.S.O. 1950, c. 335, s. 21.

Property  
of  
reformatory

**21.** A reformatory shall be deemed to include all the land procured for the institution and all buildings and machinery erected or used thereon and all vehicles being the property of the institution or employed in its service, and the superintendent has the custody and care thereof. R.S.O. 1950, c. 335, s. 22, *revised*.

Procuring  
land at  
reformatory  
for farm  
purposes

**22.** The Lieutenant Governor in Council may cause to be procured and provided, adjacent to or surrounding any reformatory, a tract of land fit for agricultural or mechanical purposes, not exceeding 200 acres, and may cause the tract to be securely enclosed. R.S.O. 1950, c. 335, s. 23.

Contracts,  
how to be  
made

**23.** All dealings and transactions on account of any reformatory, and all contracts for goods, wares or merchandise necessary for maintaining and carrying it on, or for the sale of goods prepared or manufactured therein, or for the hire, labour or employment of any of the inmates either within or without the limits thereof, shall be entered into and carried out by the Deputy Minister on behalf of Her Majesty. R.S.O. 1950, c. 335, s. 24; 1960, c. 101, s. 13.

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## CHAPTER 348

## The Registry Act

## 1. In this Act,

Interpre-  
tation

- (a) "certificate of amalgamation of loan corporations" includes a copy certified under the hand of the Registrar of Loan and Trust Corporations of the certificate of assent and declaration referred to in section 102 of *The Loan and Trust Corporations Act* and of any document mentioned in such certificate and a certificate issued for the purpose of registration under any Act of the Legislature authorizing or ratifying an agreement for the purchase and sale of the assets, or for the amalgamation of loan corporations; R.S.O. 1960,  
c. 222
- (b) "county" includes a city, a provisional judicial district, and any part of a county, district or city set apart for judicial or registration purposes;
- (c) "Inspector" means the Inspector of Legal Offices appointed under *The Judicature Act*; R.S.O. 1960,  
c. 197
- (d) "instrument" includes every Crown grant, and Order in Council of Canada and of Ontario, every deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney, under which any such instrument is executed, every bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any court, judgment or order of foreclosure and every other certificate of judgment or order of any court affecting any interest in or title to land, and certificate of amalgamation of loan corporations, every certificate of payment of taxes granted under the corporate seal of the county, city or town by the treasurer, every sheriff's and treasurer's deed of land sold by virtue of his office, every contract in writing, every order and proceeding in mental incompetency, bankruptcy and insolvency, every plan of a survey or subdivision of land, and every other instrument R.S.O. 1960,  
c. 106

whereby land may be transferred, disposed of, charged, encumbered or affected in any wise, affecting land in Ontario.

- (e) "land" includes lands, tenements, hereditaments and appurtenances and any estate or interest therein;
- (f) "photographic film" includes any photographic plate, microphotographic film or photocopy negative;
- (g) "power of attorney" includes a revocation or alteration thereof and an appointment of a substitute thereunder;
- (h) "will" includes codicil, probate of will and exemplification, and notarial or prothonotarial copy of a will, or of a probate of a will, and letters of administration with the will annexed, and a devise whereby land is disposed of or affected. R.S.O. 1950, c. 336, s. 1; 1954, c. 83, s. 1.

Application  
of  
R.S.O. 1960,  
c. 204

**2.** Subject to *The Land Titles Act*, after a certificate of the first registration of the owner under that Act has been registered as prescribed by that Act, this Act ceases to apply to the land mentioned in the certificate. R.S.O. 1950, c. 336, s. 2.

Land in  
districts  
patented  
since 31st  
December,  
1887

**3.—**(1) No instrument affecting land in a provisional judicial district granted by the Government of Ontario by letters patent or by order of the Lieutenant Governor in Council after the 31st day of December, 1887, other than lands mentioned in subsection 2 of section 35 of *The Land Titles Act*, shall be registered under this Act.

Saving as to  
lands  
heretofore  
registered

(2) The registration in the registry office of any such district of any lands so patented or granted before the 1st day of September, 1910, is declared to be valid and effectual and instruments affecting such lands, patents for which have been already registered, may continue to be registered under this Act.

Claim to  
unpatented  
lands

(3) A person claiming an interest in unpatented lands in any such district may lodge with the local master of titles a caution under section 47 of *The Land Titles Act* subject to the provisions of that section. R.S.O. 1950, c. 336, s. 3.

Change of  
boundaries  
of ridings  
not to affect  
registry  
divisions

**4.—**(1) Subject to the provisions of this Act and except where otherwise expressly provided in any general or special Act or Order in Council, the registry divisions as they existed on the 14th day of April, 1925, are the registry divisions of the Province of Ontario for the purposes of this Act and no

alterations in the boundaries of any riding, electoral district or municipality alters or affects the boundaries of any registry division.

(2) Where a new county or district is formed, it constitutes <sup>New divisions</sup> a registry division. R.S.O. 1950, c. 336, s. 4.

**5.**—(1) Where a registry division includes the whole or <sup>Situation of office</sup> part of the county or district town, the registry office shall be situate therein and, in other cases, shall be situate at such place as the Lieutenant Governor in Council directs.

(2) Where a registry office is, in the opinion of the Lieu- <sup>Idem</sup> tenant Governor in Council, inconveniently or unsafely situated, he may direct that a new registry office be erected on a new site to be approved by him. R.S.O. 1950, c. 336, s. 5.

**6.**—(1) For the safe-keeping and protection of all books, <sup>County councils to provide fire-proof offices and vaults</sup> memorials, duplicates and other instruments of whatever description and plans belonging to the office of registrar, the council of every county where at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where any registry office is established, or where under section 5 the Lieutenant Governor in Council has directed a change of site, shall provide, furnish, maintain and keep in good repair a safe and fire-proof registry office and fire-proof vault upon a plan and on a site to be approved by the Lieutenant Governor in Council, and the council shall keep the registry office furnished with fuel and furniture and in good repair and properly heated, lighted, cleaned and ventilated.

(2) A town separated from a county for municipal purposes, <sup>Expense</sup> and a city for which there is no separate registry office, shall bear such equitable proportion of the expense incurred under subsection 1 as the Inspector directs.

(3) Except where otherwise provided in this Act, the Inspector may in writing authorize the registrar under the direction of an architect named by the Inspector to expend out of the proportion of the fees to which the county or city may then or thereafter be entitled under sections 109 and 113 so much as may be deemed by the Inspector to be necessary in providing adequate fire-proof or metal fittings for the vault of the registry office or for the proper heating and ventilation of the vault, and the amount so expended, including the architect's charge, shall be certified by the Inspector, and his certificate or a duplicate thereof shall be transmitted by the registrar to the treasurer of the county or city, and is a discharge to the registrar of the amount so certified, as against the proportion of the fees then payable or to become thereafter payable by him. <sup>Registrar to provide for vaults, etc., when directed by Inspector</sup>

Municipality  
to provide  
typewriters

(4) The corporation of any county or city charged with the duty of providing books for use in a registry office shall, when so required by the Inspector, provide typewriters for use in copying instruments in the registry books, telephones, directories and such other articles as the Inspector may deem necessary for the purpose of the office. R.S.O. 1950, c. 336, s. 6.

#### REGISTRARS

Registrars,  
appointment

7. There shall be a registrar for every registry division who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure. R.S.O. 1950, c. 336, s. 7.

Registrar's  
seal

8. Every registrar shall have a seal of office to be approved of by the Inspector. R.S.O. 1950, c. 336, s. 8.

Security

9.—(1) The Lieutenant Governor in Council may fix and determine the amount of the security to be furnished by each registrar. R.S.O. 1950, c. 336, s. 9 (1).

Amount

(2) The amount of such security shall, except in the case of a registrar in a provisional judicial district, be not less than \$4,000 and not more than \$50,000. R.S.O. 1950, c. 336, s. 9 (2); 1960, c. 102, s. 1.

Additional  
security  
may be  
directed

(3) The Lieutenant Governor in Council, upon the application of any county or city interested, or without such application, may require any registrar to furnish additional security in such form and for such an amount as the Lieutenant Governor in Council determines to be sufficient to secure the due payment of any money payable by the registrar to the county or city. R.S.O. 1950, c. 336, s. 9 (3).

Liability of  
registrars  
and their  
sureties

10. The registrar and his sureties are jointly and severally liable upon and to the extent of the security furnished to any aggrieved person to indemnify him against any damage or loss sustained by him, by or through the neglect or misconduct of the registrar or his deputy in the performance of the duties of his office, but this provision does not exempt the registrar from any further responsibility to a person sustaining such damage or loss. R.S.O. 1950, c. 336, s. 10.

Registrar's  
oath of  
office

11. Every registrar, before he enters upon the duties of his office, shall take and subscribe the oath (Form 1) which shall be transmitted by him to the Provincial Secretary. R.S.O. 1950, c. 336, s. 11.

Appointment  
of deputies

12.—(1) The registrar may by writing under his hand and seal of office appoint a deputy or deputies who may perform all the duties required under this Act in the same manner and to the like effect as if done by the registrar.

(2) In case of the death, resignation, removal from or forfeiture of office of the registrar, the deputy registrar, or if more than one, the senior deputy registrar shall be the registrar *pro tempore* and shall do and perform all and every act, matter and thing necessary for the due execution of the office, until a new appointment of registrar is made, and if there is no deputy registrar the Crown attorney shall be the registrar *pro tempore* until another person is appointed, and the Crown attorney on becoming registrar may appoint a deputy registrar.

Power of  
deputy in  
case of death  
or removal  
of registrar

(3) The registrar *pro tempore* is answerable for the execution of the office during such interval, and any security given by the registrar is security for the due and faithful performance of the duties of his office by the registrar *pro tempore*. R.S.O. 1950, c. 336, s. 12.

Temporary  
officer to be  
responsible

**13.** Every deputy registrar, before he enters on the duties of his office, shall take and subscribe the oath appointed to be taken by the registrar, or an oath to the like effect, which oath he shall forthwith transmit to the Provincial Secretary. R.S.O. 1950, c. 336, s. 13.

Deputy's  
oath of  
office

**14.**—(1) No registrar or deputy registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation or person investing money or taking security on land within his county, nor advise, for fee or other reward, or otherwise, upon titles to land, or practise as a conveyancer, or act as an agent for the sale of land, within his county, nor shall he carry on or transact within the registry office any other business or occupation whatever.

Restrictions  
on actions  
of registrars  
deputies,  
etc.

(2) No registrar, deputy registrar or clerk in a registry office shall personally or as a member of a firm carry on a loaning business or be in any way connected with a firm that transacts business with the office of the registrar.

Idem

(3) No registrar, deputy registrar or clerk in a registry office shall practise as a barrister, solicitor, physician or surgeon. R.S.O. 1950, c. 336, s. 14.

Restriction  
on practising  
a profession

**15.** The work of the office shall be conducted and carried on under the direction and immediate supervision of the registrar. R.S.O. 1950, c. 336, s. 15.

Work in  
registry  
office to be  
supervised by  
registrar

**16.** Except on Saturdays and holidays when they shall be closed, every registry office shall be kept open from 9.30 a.m. until 4.30 p.m., and no instrument shall be registered on any Saturday or holiday, nor shall any instrument be received for registration except within those hours. 1952, c. 91, s. 1.

Office  
hours

Registrars to make searches and abstracts, exhibit originals, etc.

**17.**—(1) The registrar shall, when required and upon being tendered his proper fees, make searches and furnish abstracts of or concerning all instruments or memorials registered that mention any lot of land as described in the patent thereof from the Crown, or any lot described by number or letter on any registered plan, subsequent to the registration of the plan, or any part of a lot where the part is clearly described and can be identified in connection with the chain of title, or has been ascertained by actual survey, and of and concerning all instruments registered, as may be requested of him in writing, if a writing is demanded by him, but unless otherwise instructed he shall omit from the abstract all instruments ruled off pursuant to section 73 and in that case the form of the certificate in subsection 2 shall be varied accordingly, and he shall exhibit any original registered instrument, and also the books of the office relating thereto when a personal inspection thereof is desired, and shall give extracts certified under his hand of and concerning the parties to any of such instruments, or of the witnesses thereto or any other particulars that may be required, but no registrar shall allow any such book or instrument to be taken out of his possession or custody.

Certificate of registrar on abstracts

(2) Every abstract furnished by a registrar shall be commenced and certified to in the words following:

Registry Office, County of....., Abstract of Title

I certify that the above (*or the following*) are correct extracts from the only instruments registered in this office which mention or refer to (*describe property sufficiently for identification*). This abstract does not purport to give entries from the general register or bankruptcy books.

Dated at..... this..... day of....., 19....., at the hour of.....

Registrar or Deputy-Registrar. (L.S.)

Fees to be stated on abstract

(3) The fees for every abstract shall be stated on the face thereof and shall show the items making up the amount of the fees.

If requested discharged mortgages and expired liens to be omitted from abstract

(4) The registrar, when requested in writing to do so by the person requiring an abstract of title, shall omit from it mortgages and assignments thereof in respect of which instruments purporting to be discharges are entered in the abstract index, and mechanics' liens in respect of which an action has not been brought and a certificate thereof registered as required by *The Mechanics' Lien Act*, or any other class of instrument mentioned in the request, and in that case the certificate of the registrar shall be varied accordingly. R.S.O. 1950, c. 336, s. 17.

R.S.O. 1960, c. 233

Non-liability for certain errors or omissions

**18.** A registrar is not liable in respect of entries of instruments or errors or mistakes in the entries of instruments or



omissions by any of his predecessors in office, nor for any defect or inaccuracy in any abstract or certificate arising from such error, mistake or omission, unless he had become aware or had knowledge of such error, mistake or omission, or unless such abstract or certificate is defective or inaccurate to the knowledge of the registrar or his deputy or the clerk by whom it is made or signed. R.S.O. 1950, c. 336, s. 19.

**19.**—(1) On request of any person, the registrar shall furnish a certified copy, under his hand and seal of office, of any instrument or memorial deposited, registered, or filed and kept in his office. Registrar to furnish certified copies

(2) No registrar or deputy registrar is required to produce any instrument or document in his custody as registrar or deputy registrar, unless ordered by a judge of one of the courts of Ontario, which order shall be produced to the officer issuing the subpoena requiring such production, and shall be noted by him in the margin of the subpoena. R.S.O. 1950, c. 336, s. 20. Not bound to produce any papers, except on order of a judge

#### BOOKS OF OFFICE

**20.**—(1) The treasurer of every county and the treasurer of every city for which there is a separate registry office shall provide a fit and proper registry book for each township, city, town, or village, and for each town plot laid out by the Crown, and all index and other books required for the business of the registry office. Treasurer to provide proper books

(2) All registry and abstract index books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size as nearly as practicable, and with the approval of the Inspector such registry books may be in loose-leaf form with locking attachment. Pattern

(3) From the time the books are so provided and received at the registry office, the registrar shall keep and cause to be used for that purpose a separate registry book for and of each township, city, town and village and for each town plot laid out by the Crown within his registry division. Separate for each local municipality

(4) Every registrar shall keep a general registry book herein called the "general register" for the whole of the registry division, which shall be used for the purposes hereinafter set forth and every registrar shall keep an alphabetical index of the names of all the parties mentioned by name in every instrument but in the case of wills, probates and letters of administration with the will annexed it is sufficient to enter only the name of the testator and executors. General registry book

By-law book  
to be kept  
to record  
money  
by-laws

(5) The registrar shall also keep a by-law book in which shall be entered the registration number of every money by-law, the number of the by-law and its title, and name of the municipality, the amount of the debt, the rate of interest and the period for which the debentures are to run, and where the rates are to be levied on part only of the rateable property in the municipality, that fact shall be stated.

No entry in  
general reg-  
ister necessary

(6) No entry in respect of the by-law shall be made in the general register.

Index of  
wills omitted  
from general  
register

(7) Where, before the 7th day of April, 1896, wills had been recorded in the separate books of a registry division but not in the general register when they ought to have been recorded therein and in other cases where in his opinion public convenience so requires, the Inspector may, by order in writing, direct that an alphabetical index shall be prepared and kept of the names of all persons mentioned by name in such wills and designating the book or books and the pages thereof in which such wills are recorded, and the treasurer shall, for such index and the preparation thereof, pay to the registrar such sum as the Inspector may order in writing. R.S.O. 1950, c. 336, s. 21 (1-7).

General  
register,  
what to be  
used for

(8) The general register shall be used for recording wills, probates, grants of administration, general appointment of new trustees, certificates of judgment, or orders of any court removing or appointing executors, administrators, guardians or trustees, and powers of attorney in which there is a general devise or power affecting land without local description, and orders made under *The Mental Incompetency Act*, and claims for lien under *The Mechanics' Lien Act* against land that constitutes the line of railway or right of way of a railway company, general certificates of payment of succession duties under subsection 7 of section 58, and also certificates of amalgamation of loan corporations, and where a mortgage of railway of other lands was registered prior to the 1st day of April, 1899 in the general register of any registry division, a discharge of such mortgage or a reconveyance of the mortgaged premises may be registered therein. R.S.O. 1950, c. 336, s. 21 (8); 1952, c. 91, s. 3.

R.S.O. 1960,  
cc. 237, 233

New  
books

(9) When a registrar requires a new registry book or any other book for the use of his office, the book shall, on his application therefor in writing, be furnished to him by the treasurer, and all books so furnished shall be paid for by the treasurer.

Property

(10) All books so furnished, used and kept are the property of the Crown. R.S.O. 1950, c. 336, s. 21 (9, 10).

(11) Where the Inspector finds it advisable for the proper despatch of business, he may by order in writing permit more than one registry book for a municipality to be in use at the same time or the entries from more than one municipality to be made in one registry book. 1955, c. 70, s. 1.

**21.** Every treasurer of a county or city who is required by this Act to provide and maintain books for use in a registry office shall, when so ordered in writing by the Inspector,

- (a) provide and maintain a photographic film reproduction of instruments in place of such books; and
- (b) replace existing books with photographic film reproductions,

in such manner and to such extent as the Inspector orders. 1954, c. 83, s. 2.

**22.** If a treasurer refuses to furnish any book as required by section 20 or refuses to provide and maintain any photographic film reproductions as the Inspector orders, the registrar may furnish such book or provide and maintain such photographic film reproductions and recover the cost thereof from the corporation of the county or city in default. 1954, c. 83, s. 3.

**23.** The registrar shall certify (Form 2) respecting each register or other book so furnished or provided. R.S.O. 1950, c. 336, s. 23.

**24.**—(1) Where a new registry division is established consisting wholly or in part of a territory that theretofore formed part of an existing registry division, the registrar of the registry division from which such territory is detached shall deliver to the registrar of the registry division of which it becomes part or in which it is comprised,

- (a) the registry books or photographic film reproductions thereof and all other books and indexes that have been kept according to law exclusively for such territory or any part of it;
- (b) the original memorials of all instruments and documents relating exclusively to land within such territory, including deposits filed in pursuance of *The Custody of Documents Act*;
- (c) all maps of municipalities within such territory deposited according to law in his office, and all registered plans relating exclusively to land within such territory;

- (d) an abstract index book or photographic film reproduction thereof of all instruments relating to land within such territory registered before separate registry books were kept for each township or place;
- (e) a proper registry book or photographic film reproduction thereof containing full and complete copies of all memorials and other registered instruments, including deposits filed in pursuance of *The Custody of Documents Act*, affecting such land which are not under the provisions of clause *b* required to be delivered, or which, though relating exclusively to land within such territory, are entered in a registry book not required to be delivered as provided by clause *a*;
- (f) another proper registry book or photographic film reproduction thereof containing copies of all wills and other instruments registered in a general register in which the names of any of the parties to them have been entered in the alphabetical index kept for any part of the territory;
- (g) a copy of the alphabetical index attached to any such general register;
- (h) copies of all plans which, though not affecting exclusively such territory, include within their boundaries any portion of it. R.S.O. 1950, c. 336, s. 24 (1); 1954, c. 83, s. 4 (1-4).

Index

(2) Each registry book and photographic film reproduction to be delivered shall have or be accompanied by an alphabetical index of names.

Comparing  
of books,  
etc.

(3) The registrar shall carefully compare all entries made in the registry books or photographic film reproductions thereof that he is required to deliver with the original entries in the registry book or photographic film reproduction thereof and shall certify in writing that he has done so.

Time for  
delivery  
of books,  
etc.

(4) The registrar shall perform the duties imposed upon him by this section within such time as the Inspector requires. 1954, c. 83, s. 4 (5).

Registrar  
removed or  
resigning to  
deliver up  
books to  
new reg-  
istrar, etc.

**25.** Where a registrar is removed from or resigns his office, he shall forthwith deliver up all books or photographic film reproductions thereof, plans, instruments, memorials and indexes in his possession as registrar to the person who is appointed registrar in his stead, or to any other person who may be appointed in writing by the Attorney General to receive them, and if the registrar refuses to do so the Attorney

General may direct the sheriff of the county to seize and take immediate possession of them wheresoever found, and the registrar so offending is liable to a penalty of not more than \$2,000, and, in the discretion of the court, may also be imprisoned for a term of not more than one year. R.S.O. 1950, c. 336, s. 25; 1954, c. 83, s. 5. Penalty, in case of refusal

**26.**—(1) Where any book, from age or use, is becoming obliterated or unfit for further use, the Inspector shall, by direction in writing under his hand, order that it be recopied in a book of the same description as that prescribed by section 20, so far as the same can be deciphered by examination thereof and of the original instruments or memorials relating thereto. When any book becomes unfit for further use, copy to be made

(2) Such book, having the order of the Inspector inserted at the beginning, and having the affidavit or declaration of the registrar or his deputy at the end to the effect that it is a true copy of the original book, shall be accepted and received as the original, and as *prima facie* evidence that the copy is a true copy, but the original book shall nevertheless be carefully preserved. Original to be preserved

(3) The Inspector may order any book that is out of repair to be repaired in such manner as he thinks necessary, and may order plans and maps deposited in any registry office to be copied, mounted or bound, and to be preserved in such manner as he thinks necessary. Repair of books, maps, etc.

(4) The Inspector may order as many counterparts or copies of any abstract index book to be made as he deems necessary for the public convenience, and may order new abstract indexes to be made when the indexes in use have become complicated or otherwise inconvenient. Inspector may order duplicate or new abstract indexes

(5) When authorized so to do by the Lieutenant Governor in Council, the Inspector may order new surveys and plans to be made of any locality or territory in a registry division that, in his judgment, have become necessary, whether the locality or territory has or has not been subdivided according to a registered plan. R.S.O. 1950, c. 336, s. 26 (1-5). and new surveys and plans

(6) When an abstract index is to be recopied, every instrument entered in the abstract index, whether ruled off or not, shall be recopied and the registrar shall carefully preserve such abstract index which shall be available for inspection as in the case of current indexes. 1952, c. 91, s. 4. Recopying of abstract index

**27.** Subject to section 28, the fees and expenses for services rendered under sections 24 and 26 shall be paid by the treasurer of the county, and a town separated from the county for municipal purposes and a city for which there is not a separate registry office shall pay to the county such equitable propor- Payment for services under ss. 24 and 26

tion thereof as the Inspector shall direct. R.S.O. 1950, c. 336, s. 27.

Fees for  
preparing  
plans,  
etc., for  
municipalities

**28.** The Inspector may order the expenses of new surveys and plans, and the registration thereof under section 26, to be paid by the treasurer of any local municipality concerned, or in part by the county treasurer and in part by the treasurer of the local municipality, and the local municipality may, subject to the order of the Inspector, cause the expenses or part thereof to be levied by assessment on all rateable property comprised in the portion of the municipality affected by the plan or survey. R.S.O. 1950, c. 336, s. 28.

Abstract  
index  
of lots

**29.**—(1) The registrar, in a book (Form 3) called the "Abstract Index", shall enter under a separate and distinct head each separate lot or part of a lot of land as originally patented by the Crown, or as defined on any registered plan of the subdivision of such land into smaller sections or lots.

Entries

(2) Every instrument that mentions such parcel or lot of land or other subdivision, the names of every party to the instrument and the nature of it, the registration number for each municipality in which land mentioned therein is situate, and the day, month and year of its registration, the consideration or mortgage money mentioned in it, and such a description of the land therein mentioned as will readily identify its location, shall, in addition to all entries required by law, be entered by the registrar in the abstract index in regular order under the proper heading of each separate parcel or lot of land. R.S.O. 1950, c. 336, s. 29.

Alphabetical  
index of  
names  
for each  
locality

**30.** Every registrar shall also keep, for each township, city, town and village, and for each town plot laid out by the Crown an alphabetical index of names (Form 4), exhibiting in columns the number of each instrument, the names of the grantors, and the names of the grantees. R.S.O. 1950, c. 336, s. 30.

#### INSTRUMENTS THAT MAY BE REGISTERED

Instruments  
that may  
be registered

**31.** Except as otherwise herein provided and subject to section 33, all instruments mentioned in section 1 may be registered. R.S.O. 1950, c. 336, s. 31.

Photo-  
graphic  
reproduction  
of instru-  
ments

**32.** For the purpose of accommodating a system of recording instruments by means of photographic duplicates, the Inspector may, by regulation, designate any registry division as an area to which this section applies, and, after the effective date of such designation, no instrument, other than a plan of survey, executed after that date shall be registered if

its dimensions are greater than  $8\frac{1}{2}$  inches by 14 inches. 1951, c. 78, s. 1.

**33.**—(1) Except as provided by subsection 8 of section 20, no instrument that affects land without local description shall be registered unless the instrument, when offered for registration, in addition to the ordinary proofs for registration, has attached to it a statutory declaration by one of the parties to the instrument, or by his attorney under registered power of attorney, or by the heirs, executors or administrators of the party, to the effect that the instrument affects land within the registry division, and giving a local or general description of the land sufficient to enable it to be traced or ascertained by a surveyor, and thereupon the instrument shall be recorded in the proper separate registry book and particulars thereof entered in the abstract index and in all other books in the same manner as if the instrument itself had contained the local description of the land. R.S.O. 1950, c. 336, s. 33 (1); 1951, c. 78, s. 2.

(2) Where an instrument affecting land without local description is, under this section, recorded in the separate registry books, it may be further recorded and entered therein so as to affect other land by local description by the registration of a statutory declaration (Form 15) to be made by any of the persons mentioned in this section.

(3) Where an instrument has been or is recorded in the general register, particulars thereof may be recorded in the separate registry books by the registration of a like statutory declaration.

(4) The last-mentioned statutory declaration shall be recorded in the proper registry books, and particulars thereof entered in the abstract index and in all other books in the same manner as upon the registration of an instrument that affects land by local description.

(5) Any statutory declaration mentioned in this section may, where one of the parties to an instrument is a corporation, be made by an officer thereof, or where one of the parties entitled to make a declaration is absent from Ontario it may be made by his solicitor.

(6) In this section, "local description" means a local or general description of land sufficient to enable the same to be traced or ascertained by a surveyor.

(7) Except mortgages, encumbrances or liens, made or given by the original nominee of the Crown, or by any person through whom a person, obtaining a grant of land from the Crown, derived title, no instrument affecting land that has

not been granted by the Crown shall be tendered for registration or registered. R.S.O. 1950, c. 336, s. 33 (2-7).

Proof for  
registration

**34.**—(1) An instrument other than a will, grant or lease from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, certificate of judicial proceedings or an instrument that may be registered by deposit of a certified copy shall not be registered unless accompanied by an affidavit (Form 5) of a subscribing witness, not being a party to the instrument, as to the execution of the instrument by each party who appears to have executed it, setting forth the name, place of residence, addition, occupation or calling of the witness, and deposing to,

- (a) the execution of the original and of the duplicate, if any, by the party to whose execution thereof he is a witness;
- (b) the place of execution by the party;
- (c) that he knows that the person who executed the instrument in his presence is the party to the instrument as to whose execution thereof he deposes;
- (d) that he is a subscribing witness to the instrument.

Idem

(2) The affidavit shall be made on or securely attached to the instrument.

Name of  
witness need  
not be set  
forth in full  
in affidavit

(3) An instrument may be registered notwithstanding that the given name or names of the subscribing witness making the affidavit is or are only set forth therein by initials or abbreviation and not in full.

Saving

(4) The proof of the execution of an instrument made before the 1st day of September, 1910, which was sufficient proof for registration before that day, is sufficient proof for registration under this Act. R.S.O. 1950, c. 336, s. 34.

Affidavit of  
execution in  
case of  
instruments  
given in  
respect of  
purchase or  
delivery of  
goods

**35.** An instrument, not purporting to convey the land therein mentioned, but which in its nature is, or purports to be, given as a security for the payment of a debt or liability incurred by the person executing it in respect of a purchase or delivery of any goods or in respect of an advance or loan of money, shall not be registered unless the affidavit of execution (Form 6) states that the instrument was read over and explained to the person executing it, and that he appeared perfectly to understand it, and was informed that it might be registered as an encumbrance on his land. R.S.O. 1950, c. 336, s. 35.

(NOTE.—See section 72 as to discharge of such claims.)



**36.**—(1) Every affidavit made under the authority of this Act shall be made before the registrar or deputy registrar of the registry division in which the land lies, or before some person authorized by law to take affidavits in or for use in Ontario. Before whom to be sworn in Ontario

(2) Where an affidavit of execution is made out of Ontario before a person who has not an official seal, it is sufficient for him so to certify. R.S.O. 1950, c. 336, s. 36. Where affidavit made out of Ontario

**37.** The proof may be by affirmation or declaration when the person before whom the proof is made certifies that, by the law of the country where the proof is made, an affirmation or declaration may be substituted for an affidavit. R.S.O. 1950, c. 336, s. 37. Affirmation or declaration in certain cases

**38.** No person authorized to take affidavits shall take an affidavit of the execution of an instrument to which he is a party; nor shall such an affidavit be taken from a witness unless the witness has subscribed his name in his own handwriting as such witness. R.S.O. 1950, c. 336, s. 38. Parties not to take affidavits  
Witnesses to sign

**39.** Every subscribing witness is compellable, by order of a judge of the Supreme Court or of a county or district court, to make affidavit or proof of the execution of an instrument for the purpose of registration, and to do all other acts necessary for that purpose, upon being paid or tendered his reasonable expenses therefor. R.S.O. 1950, c. 336, s. 39. Witnesses compellable to make affidavit

**40.** Where the witnesses to an instrument are dead or are out of Ontario, or have become mentally ill, mentally defective or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument not by law requiring an attesting or subscribing witness thereto has been executed without an attesting or subscribing witness, or if it is proved that the place of abode or residence of the first-mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the instrument may make proof before any judge of any county or district court, of the execution of the instrument, and upon a certificate (Form 7) being endorsed on the instrument and signed by the judge, the registrar shall register the instrument and certificate. R.S.O. 1950, c. 336, s. 40. Witnesses mentally ill, mentally defective, absent, etc.

**41.** The seal of a court of record affixed to an instrument of itself, and the seal of a corporation affixed to an instrument with the signature purporting to be the signature of the presiding officer, vice-president, manager, director, secretary, treasurer, attorney or other authorized person is sufficient Seal of court or seal of corporation with signature of officer to suffice for registration

evidence, for the purpose of registration, of the due execution of the instrument by the judge, or the officer of the court signing it, or by the corporation. R.S.O. 1950, c. 336, s. 41.

Judgment  
affecting  
lands may  
be registered

**42.** Every judgment or order affecting land may be registered in the registry office of the registry division in which the land is situate on a certificate signed by the proper officer of the court setting forth the substance and effect of the judgment or order and the land affected thereby. R.S.O. 1950, c. 336, s. 42.

Registrar  
to deliver  
certified  
copy of  
registered  
instruments

**43.—(1)** Where an instrument is registered, the registrar shall deliver a certified copy or copies thereof as may be required of him, and of all the documents connected with or relating to the instrument, under his signature and seal of office, and in his certificate he shall state the time, place and other particulars of registration, and that the copy that he so delivers is a true copy of the instrument, and of all the other documents connected with or relating to the instrument of which they respectively purport to be copies, and in the case of a will that the affidavit proving the due execution of it is deposited in his office.

Registration  
of certified  
copy

(2) Every such certified copy may be registered in any other registry office, by deposit thereof, without production of the original instrument and without proof other than the production of the copy so certified.

Instrument  
in land titles  
or county or  
district court  
office

(3) Where an instrument is deposited in an office of land titles, or is registered in the office of the clerk of a county or district court, a copy thereof certified by the officer in whose office it is deposited or registered may be registered in any registry office in the same manner as a copy of an instrument certified by a registrar.

Registration  
of powers of  
attorney  
deposited  
with  
Government  
department

(4) A power of attorney or other instrument conferring authority upon an officer or person to act for an incorporated company, executed by the company and deposited in the office of any department of the Government, may be registered by the deposit of a copy thereof certified by the proper officer of that department and without production of the instrument or proof of the execution thereof. R.S.O. 1950, c. 336, s. 43.

(NOTE.—*As to evidence by certified copy, see The Evidence Act, R.S.O. 1960, c. 125, s. 51.*)

Registration  
of notarial  
copies of  
instruments  
executed in  
Quebec

**44.** A notarial copy of an instrument executed in the Province of Quebec, the original of which is filed in a notarial office according to the law of Quebec, and a prothonotarial copy of an instrument executed in Quebec may be registered and shall be treated under this Act for all purposes as if it

were the original instrument, and such notarial or prothonotarial copy with the seal of the notary or prothonotary attached shall be registered without any other proof of the execution of the original thereof. R.S.O. 1950, c. 336, s. 44.

**45.** Every deed or conveyance and every charge or mortgage registered under this Act shall by endorsement thereon show the full name and place of residence, giving the street number, if any, of the grantee or mortgagee, as the case may be. R.S.O. 1950, c. 336, s. 45.

Deed, conveyance and mortgage to contain full name and address of grantee or mortgagee

**46.** Where an instrument or an affidavit of execution is written wholly or in part in a language other than English there shall be produced with the instrument or the affidavit of execution a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original, and that the translation is in all respects a true and correct translation, and the registrar shall not enter the instrument or affidavit in the language in which it is written but shall copy from the translation. R.S.O. 1950, c. 336, s. 46.

Registering instruments in foreign languages

#### MANNER OF REGISTERING

**47.**—(1) Unless otherwise provided, every instrument that may be registered under this Act shall be registered upon and by delivery to and deposit with the registrar of the instrument or of a duplicate or other original part thereof with all necessary affidavits, and, unless otherwise provided, every such instrument shall be recorded at full length in the proper book, or by means of photographic film reproduction, including every certificate and affidavit accompanying it, except the registrar's certificates. R.S.O. 1950, c. 336, s. 47 (1); 1954, c. 83, s. 6.

Instruments to be registered in full unless otherwise provided

(2) The registrar is not bound to receive for registration or to register an instrument unless the proper fees are first paid.

Fees payable before registration

(3) Every instrument registered shall be forthwith stamped on every page by the registrar with a perforating stamp bearing the word "Registered". R.S.O. 1950, c. 336, s. 47 (2, 3).

Instruments to be stamped

**48.**—(1) When a mortgage has endorsed upon it the words "Not to be recorded in full", the mortgage shall not be copied into the registry book.

Mortgages not registered in full

(2) The mortgage shall be numbered as other instruments are required to be numbered in the registry book in its proper order, and the marginal note made as required by section 55, and the registrar shall at the time of the registration enter

Method

Particulars  
of mortgage  
not registered  
in full

opposite the number in the registry book the words "Mortgage not recorded in full", and shall also give the date and names of the parties to the mortgage, the amount secured, the rate of interest, the amount and dates of payment set out in the proviso for redemption, the time for which the mortgage is to run and such a description of the land therein mentioned as will readily identify the location. R.S.O. 1950, c. 336, s. 48 (1, 2).

Subsequent  
registry  
in full

(3) After the registration of the mortgage the registrar, upon the application of any person claiming to be interested in the mortgaged land, and upon payment of the prescribed fees as set out in section 99, less the amount already paid for registration, shall cause the mortgage to be recorded in full in the registry book or by means of photographic film reproduction. R.S.O. 1950, c. 336, s. 48 (5); 1954, s. 83, s. 7.

Entry in  
abstract  
index where  
mortgage not  
registered  
in full

(4) The registrar shall indicate in the abstract index, in the case of the registration of a mortgage endorsed "Not to be recorded in full", that the same has not been recorded in full, and where it has afterwards been recorded in full under subsection 3, the registrar shall note in the abstract index opposite the entry "Subsequently recorded in full", giving the date of recording and the number and page of the registry book.

Interpre-  
tation

(5) In this section, "mortgagee" includes the assignee of a mortgage and a person obtaining any security coming within the terms of section 35 and "mortgage" includes an assignment of a mortgage and an agreement to extend the time for payment of a mortgage or any such security. R.S.O. 1950, c. 336, s. 48 (6, 7).

Registration  
of power of  
attorney  
when  
instrument  
executed by  
attorney

**49.—**(1) No instrument purporting to be signed or executed by any person by attorney shall be registered unless, at or before the time of registration, the original power of attorney, or a copy thereof certified for registration, is registered in the same registry office and the date of registration and registration number thereof are indicated in the body or margin of the instrument tendered for registration, but, when the power of attorney or a certified copy thereof cannot be produced, proof may be made before a judge of any county or district court of the execution of the instrument, and upon a certificate (Form 7) being endorsed on the instrument and signed by the judge that he is satisfied by the proof adduced of the due execution of the instrument the registrar shall register the instrument and certificate.

Special entry  
to be made  
when  
instrument  
executed by  
attorney

(2) Where an instrument, signed or executed by any person by attorney, is registered the registrar shall enter a note of the fact of such signature or execution by attorney, giving the

name of the attorney, on the abstract index and on all abstracts of title thereafter furnished by him relating to the land affected by the instrument.

(3) Subsection 1 does not apply to instruments purporting to be executed by attorneys or commissioners for the Canada Company, the Trust and Loan Company of Canada, the Scottish Ontario and Manitoba Land Company, the North British Canadian Investment Company, the North of Scotland Canadian Mortgage Company, Limited, or the Scottish American Investment Company. R.S.O. 1950, c. 336, s. 49. <sup>Exception</sup>

**50.** Where an instrument in two or more original parts is registered the registrar shall endorse upon each of the parts a certificate of the registration (Form 8) and any part so certified shall be received as *prima facie* evidence of the registration of the instrument and of the due execution of the same. R.S.O. 1950, c. 336, s. 50. <sup>Instrument in two or more parts</sup>

**51.** Where an instrument includes parcels of land situate in different municipalities in the same registry division, it is only necessary to furnish the instrument or one original part of the instrument, with an affidavit of its execution, and the instrument and affidavit shall be copied into the registry book for each municipality or place wherein any of the land therein mentioned is situate, and the registrar shall make the necessary entries and certificates. R.S.O. 1950, c. 336, s. 51. <sup>Instruments relating to several lots in different localities</sup>

**52.—(1)** A deed, conveyance, mortgage, assignment of mortgage, release or quit claim that is made by one or more men or women shall not be registered unless there is made on or securely attached to it an affidavit or statutory declaration by such person or any one of such persons, as the case may be, or, if the document is executed by an attorney, by that attorney, deposing or declaring that such person is or such persons are of the full age of twenty-one years. <sup>Affidavit as to age</sup>

(2) A deed, conveyance, mortgage, release or quit claim that is executed after the 25th day of June, 1939, and that is made by a man, and a woman joins therein as his wife to bar her dower, shall not be registered unless there is made on or securely attached to it an affidavit or statutory declaration by such man or woman, or, if the document is executed by an attorney, by that attorney, deposing or declaring that they are legally married. <sup>Affidavit as to marriage</sup>

(3) A deed, conveyance, mortgage, release or quit claim that is made by a man and no one joins therein as his wife shall not be registered unless there is made on or securely attached to it an affidavit or statutory declaration by the man, <sup>Affidavit as to marital status</sup>

or, if the document is executed by an attorney, by that attorney, deposing or declaring that the man is married, unmarried, divorced or a widower, as the case may be.

Dispensing  
with  
affidavit

(4) Where it is made to appear to the judge of a county or district court that the affidavit or statutory declaration required by subsection 1, 2 or 3 cannot be obtained conveniently, the judge may, upon such evidence by affidavit or otherwise as he deems proper, dispense with the affidavit or declaration, and thereupon he shall endorse upon the instrument or securely attach to it his order directing the registrar to register the instrument notwithstanding the absence of the affidavit or declaration, and the registrar shall thereupon register the instrument.

Entry in  
register

(5) In the case of a conveyance, the registrar shall copy the affidavit, declaration or judge's order in the register with the copy of the conveyance.

Where  
subs. 1 does  
not apply

(6) Subsection 1 does not apply,

- (a) to a wife who joins in a deed, conveyance, mortgage, assignment of mortgage, release or quit claim solely for the purpose of barring her dower;
- (b) to a mortgage of leasehold lands; or
- (c) to a deed, conveyance, mortgage, assignment of mortgage, release or quit claim made by an executor or administrator or a trustee under a will or by the Public Trustee or any other person dealing with lands in an official capacity.

Where  
subs. 2, 3  
do not  
apply

(7) Subsections 2 and 3 do not apply,

- (a) to a conveyance made in pursuance of a power of sale contained in a mortgage;
- (b) to a deed, conveyance, mortgage, assignment of mortgage, release or quit claim made by men or women who are the registered owners of lands as trustees or as holding the lands as partnership property or as joint tenants or under power of appointment if they are so described in the conveyance of the lands to them;
- (c) to a mortgage of leasehold lands; or
- (d) to a deed, conveyance, mortgage, assignment of mortgage, release or quit claim made by an executor or administrator or trustee under a will or by the Public Trustee or any other person dealing with lands in an official capacity. 1958, c. 94, s. 1.

**53.**—(1) In this section, “assurance” includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, encumbrance, devise, bequest and every other assurance by deed, will or other instrument. 1954, c. 83, s. 8, *part.* Interpretation

(2) Where an assurance of land is made to or for the benefit of a corporation, the assurance shall not be registered unless there is made on or securely attached to it an affidavit or statutory declaration by an officer of the corporation or by the solicitor for the corporation or by the attorney appointed for the purpose of executing such assurance on behalf of the corporation under a power of attorney registered in accordance with the provisions of this Act that such assurance is not made contrary to section 2 of *The Mortmain and Charitable Uses Act*. 1954, c. 83, s. 8, *part*; 1955, c. 70, s. 2 (1). Affidavit or declaration as to corporation's authority to acquire land  
R.S.O. 1960, c. 246

(3) Where it is made to appear to the judge of a county or district court that the affidavit or statutory declaration required by subsection 2 cannot be obtained conveniently, the judge may, upon such evidence by affidavit or otherwise as he may deem proper, dispense with the affidavit or declaration, and thereupon shall endorse upon the assurance or securely attach thereto his order directing the registrar to register the assurance notwithstanding the absence of the affidavit or declaration, and the registrar shall thereupon register the assurance. 1954, c. 83, s. 8, *part.* Dispensing with affidavit or declaration

(4) This section does not apply to an assurance made to or for the benefit of, Where section not to apply

- (a) a corporation that is licensed or registered under *The Insurance Act*, *The Investment Contracts Act* or *The Loan and Trust Corporations Act*; or R.S.O. 1960, cc. 190, 194, 222
- (b) a bank to which the *Bank Act* (Canada) applies; or R.S.C. 1952, c. 12
- (c) Central Mortgage and Housing Corporation; or
- (d) a corporation all the shares of which are held by or in trust for the Crown in right of Canada or any province of Canada; or
- (e) a board, commission or other body all the members of which are appointed by the Governor General in Council or by the Lieutenant Governor in Council; or
- (f) a municipality within the meaning of *The Department of Municipal Affairs Act*; or R.S.O. 1960, c. 98
- (g) an authority established under *The Conservation Authorities Act*. 1954, c. 83, s. 8, *part*; 1955, c. 70, s. 2 (2); 1960, c. 102, s. 2. R.S.O. 1960, c. 62

Copying  
into registry  
book

Filing  
instrument  
and  
affidavit

Certificate  
and its  
effect

Registrar to  
see that all  
copies in  
registers  
are correct

Statutory  
declaration of  
correctness

Pages and  
instruments  
to be  
numbered

Minute of  
registration  
in margin

Crown  
grants

Orders in  
Council

R.S.O. 1960,  
c. 85

Wills

**54.—**(1) When an instrument is registered the registrar shall make an entry thereof in the abstract and alphabetical index books, and record the instrument in the registry book in the order in which it is received, and file it with the affidavit of execution and any other affidavit or certificate accompanying it, and shall endorse on every such instrument and upon every duplicate or other original part of it a certificate (Form 8) and shall therein mention the year, month, day, hour and minute in which the instrument was registered, stating in what book it has been recorded, and the registration number, and shall sign the certificate, which shall be allowed and taken in all courts as evidence of the respective registries.

(2) The registrar shall see that all copies of instruments in the registry books are true copies, and he or his deputy or clerk shall certify all such copies by writing "Examined and certified true copy" in the margin opposite every copy in the book, appending his initials and the date.

(3) When a registry book is completed the registrar, his deputy or clerk, shall at the end thereof show by a statutory declaration that the copies contained in the book and certified by him are true copies of the original instruments of which they purport to be copies. R.S.O. 1950, c. 336, s. 53.

**55.** Every page of the registry book and every instrument recorded therein shall be numbered and the year, month, day, hour and minute of registration shall be entered in the margin of the registry book (Form 9), and the entry shall be signed by the registrar or his deputy. R.S.O. 1950, c. 336, s. 54.

**56.** Grants from the Crown shall be registered by registering the grant or an exemplification thereof or by producing the grant or an exemplification thereof, with a true copy thereof with an affidavit verifying the copy, and the copy shall be deposited with the registrar, and the correctness of it shall be verified by the registrar or his deputy. R.S.O. 1950, c. 336, s. 55.

**57.** Orders in Council shall be registered by depositing a copy of the order certified by the clerk of the council in accordance with *The Custody of Documents Act*. R.S.O. 1950, c. 336, s. 56.

**58.—**(1) A will shall be registered,

(a) by the production of the original will and the deposit of a true copy thereof with an affidavit verifying the copy, and with an affidavit sworn to by one of the subscribing witnesses to the will proving the due execution thereof by the testator; or



(b) by the production of probate or letters of administration with the will annexed, or an exemplification or certified copy thereof, under the seal of any court in Ontario, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by depositing a true copy of the probate, letters of administration, or exemplification or certified copy with an affidavit verifying the copy or by depositing the probate, letters of administration, exemplification or certified or notarial copy.

(2) The correctness of the sworn copy shall be verified by the registrar or his deputy. Verification

(3) Where a will is registered by the production of the original will, the affidavit of the subscribing witness or of some other person shall state that the testator is dead. Proof of testator's death

(4) Unless with the consent in writing of the Treasurer of Ontario or of some one authorized by him to consent, an original will or an exemplification or certified copy of probate or letters of administration with the will annexed under the seal of any court in Great Britain and Ireland, or in any British province, colony or possession, or in any foreign country having jurisdiction therein, shall not be registered under this section unless accompanied by a certificate of the registrar of the surrogate court of the county in Ontario where the deceased had a fixed place of abode, or where the lands, or any of them, devolving by the will are situate, showing that an affidavit has been filed with him similar to that required by section 13 of *The Succession Duty Act*, and such certificate shall be deposited with the registrar. Compliance with requirements of R.S.O. 1960, c. 386

(5) All wills shall be recorded in the general register and properly indexed, and where a will contains a devise of or charges, or otherwise affects land described therein by a description sufficient to readily identify the land, it shall also be entered in the abstract index against the lands so described. Recording wills

(6) Subject to subsection 4, whether letters probate or letters of administration have or have not been granted, no deed, grant, conveyance, mortgage, assignment of mortgage, discharge of mortgagee or other instrument purporting to convey, transfer or assign, Consent of Treasurer required

(a) any property standing in the name of a deceased person or held in trust for him or in the names of a deceased person and any other person;

(b) any property over which the deceased person had, at the time of his death a general power of appoint-

ment, notice of which appears in any register, book, document or instrument or on any abstract in the registry office;

- (c) any property in which the deceased person at the time of his death had any registered beneficial interest whatsoever,

shall be tendered for registration, unless the consent in writing of the Treasurer of Ontario is attached thereto or endorsed thereon, and until such consent is given, notwithstanding anything contained in *The Devolution of Estates Act*, any land so conveyed does not vest in the person beneficially entitled thereto or his assigns or any person claiming under him.

R.S.O. 1960,  
c. 106

General  
certificate

(7) The Treasurer of Ontario may issue a general certificate that all succession duty payable in respect of the estate or any lands forming part of the estate of a deceased person have been paid and satisfied or that security for such payment as required under *The Succession Duty Act* has been given, and upon registration of the certificate it is not necessary that subsection 6 be complied with in respect to any lands described in the certificate; provided the date of registration and registration number of such general certificate are indicated in the body or margin of the instrument tendered for registration. R.S.O. 1950, c. 336, s. 57 (1-7).

R.S.O. 1960,  
c. 386

Certificate  
to contain  
description  
of land

(8) A certificate to be registered under subsection 7 shall contain a local description of the lands mentioned therein or a description by reference to a registered instrument and registration thereof shall be made by production of the original certificate and deposit of a notarial copy thereof or of so much thereof as relates to the lands situate in the registry division for which the same is to be registered. 1957, c. 107, s. 3.

Recording  
certificate

(9) Certificates registered under subsection 8 shall be recorded in the general register and particulars thereof entered in the abstract index against the lands described therein.

Consent  
required  
only once

(10) Notwithstanding anything herein, the above consent shall be required only once in connection with the same property in the same estate.

Application  
of  
subss. 6-10

(11) Subsections 6 to 10 do not apply where the deceased person died prior to the 1st day of January, 1930. R.S.O. 1950, c. 336, s. 57 (9-11).

Letters of  
administra-  
tion  
R.S.O. 1960,  
c. 106

**59.** Letters of administration that under *The Devolution of Estates Act* affect land shall be registered in the same manner as a probate of a will. R.S.O. 1950, c. 336, s. 58.

**60.** No instrument purporting to convey or otherwise deal with land in any manner shall be registered if executed by any person as devisee, legatee, executor or administrator of the estate of a deceased person who at the time of his death appears from the register to have been in any wise possessed of or interested in the land in question unless before the time of registration of the instrument the will or the letters probate of the will or the letters of administration under which the person executing the instrument claims to be entitled has or have been registered in the registry division in which the land in question is situate and the date of registration and registered number thereof have been inserted in the body of the instrument or in its margin. R.S.O. 1950, c. 336, s. 59.

Wills or  
letters of  
administra-  
tion when  
conveyance  
made

**61.—(1)** A notice of sale of land under *The Mortgages Act*, and a notice of exercising the power of sale contained in any mortgage and the affidavit or declaration of service thereof may be registered, and shall be registered in the same manner as an instrument affecting land; provided that no affidavit of execution is required and it is not necessary to record the notice or the affidavit or declaration of service attached thereto in the registry book.

Notice of  
sale  
R.S.O. 1960,  
c. 245

(2) The affidavit or declaration shall be made by the person who served the notice, and shall prove the time, place and manner of the service, and that the copy delivered to the registrar is a true copy of the notice served.

Proof for  
registration

(3) A copy of the registered notice and affidavit or declaration certified under the hand and seal of office of the registrar is *prima facie* evidence of the service of the notice as stated in the affidavit or declaration.

Certified  
copy to be  
evidence

(4) Where the person who served the notice is dead or out of Ontario, or where it is proved to the satisfaction of a judge of a county or district court that the place of abode of such person is unknown, or that he is incapable of making an affidavit or declaration of service, or where service of the notice has been or is duly admitted, any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service of the notice, and upon a certificate of the judge endorsed on or attached to the notice and signed by him to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice, the registrar shall register the notice and certificate.

Proof of  
notice of  
sale under  
mortgage

(5) Where the notice cannot be produced to be registered, any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service thereof and of the inability to produce the notice, and

Where  
notice of  
sale lost  
and cannot  
be produced

upon depositing a certificate of the judge to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice upon the person served, naming him, and that the notice cannot be produced, the registrar shall register the certificate, and a copy of such certificate under the hand and seal of the registrar is *prima facie* evidence of the facts therein stated.

Other  
registry  
offices

(6) Where a notice of sale or a certificate of a judge under subsection 4 or 5 has been registered, the notice or certificate may be registered in any other registry office by depositing a copy thereof, certified in the manner provided by section 43. R.S.O. 1950, c. 336, s. 60 (1-6).

When mort-  
gage to be  
recorded  
in full

(7) No final order of foreclosure or instrument purporting to be a conveyance of land under power of sale contained in an unregistered mortgage or a mortgage that has been registered "not in full" shall be registered until the mortgage and any assignment thereof has been duly registered and copied or reproduced in full pursuant to subsection 3 of section 48. R.S.O. 1950, c. 336, s. 60 (7); 1954, c. 83, s. 9.

R.S.O. 1960,  
cc. 197, 126,  
233, 241,  
236

(NOTE.—*As to registration of orders and judgments for alimony, see The Judicature Act; as to registration of notice of seizure of a mortgage by sheriff, see The Execution Act; as to registration of mechanics' liens and discharges of liens, see The Mechanics' Lien Act, and for liens on mining claims and rights, The Mining Act. See also The Northern Development Act, being Chapter 34 of the Revised Statutes of Ontario, 1937, and The Mental Hospitals Act.*)

Instruments  
executed  
before  
1st Jan.,  
1866

**62.** The registration of an instrument executed before the 1st day of January, 1866, may be made through a memorial or by certificate or otherwise, as provided by the law in force before that date. R.S.O. 1950, c. 336, s. 61.

Proof of  
registration  
of instru-  
ments in full  
executed  
before 1st  
Jan., 1866,  
etc.

**63.** The proof that would before the 1st day of January, 1866, have been sufficient for the registration of an instrument executed before that date, is sufficient for the registration of any such instrument, but the instrument shall be recorded at full length, and the memorial and affidavit shall be deposited with the registrar in lieu of the original. R.S.O. 1960, c. 336, s. 62.

Registration  
of instru-  
ments in  
full when  
memorials  
previously  
registered

**64.**—(1) An instrument that has been registered by memorial, and has endorsed thereon a certificate of the registration thereof, may be reregistered in the same or any other registry division by the production of the original instrument and by the deposit of a copy with an affidavit verifying the same.

(2) The registrar shall record the instrument, the affidavit <sup>Method</sup> of verification and the certificate of former registration at full length, and shall write in the margin of the registry book the words "Original not deposited", and, where the former registration was made in the same office, the registrar shall write upon the entry of the memorial in the registry book a memorandum as follows: "Reregistered and recorded in full as No.....", giving a reference to the number and registry book where the instrument is recorded in full, and he shall also note the reregistration in red ink wherever the memorial is entered in an abstract index.

(3) The registrar shall also endorse upon the original <sup>Endorsement</sup> instrument a certificate of the reregistration (Form 8). R.S.O. 1950, c. 336, s. 63.

**65.**—(1) In the case of a registered mortgage the registrar <sup>Discharge of mortgage</sup> on receiving a certificate (Form 10), executed by the mortgagee, his executors, administrators or assigns, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, and duly proven in the manner provided for the proof of other instruments, shall register the certificate, and record it and every affidavit attached to or endorsed on it, at full length in the proper order, in the registry book, and number it in like manner as other instruments are required to be registered, recorded and numbered.

(2) Where a discharge of mortgage is tendered for registration there shall be produced to the registrar the duplicate <sup>Production and cancellation of duplicate mortgage on registering discharge</sup> mortgage and assignments thereof, if any, or a declaration by the person signing the discharge stating that the original duplicate mortgage or duplicate of any assignment thereof cannot be produced and the reason therefor, and in such case the declaration shall be securely attached to and filed away with the discharge and the duplicate so produced shall be returned to the party registering the discharge; provided that where any such assignment includes a mortgage of other property, production of that assignment is not required.

(3) Where the person signing the discharge has since died <sup>Absence from Ontario of person signing discharge</sup> or is out of Ontario or his place of residence is unknown to the person interested in the registration of the discharge, or where in the opinion of the registrar for any other reason the necessary declaration cannot be obtained conveniently, the registrar may register the discharge upon receiving a declaration from some person having a knowledge of the facts stating reasons satisfactory to the registrar why a declaration by the proper person cannot be obtained, provided that if the registrar then refuses to register the discharge, the person interested in the registration of the discharge may apply to a county

judge for an order permitting the registration, and in such case the declaration or judge's order shall be securely attached to and filed with the discharge.

Stamping  
discharged  
mortgage

(4) The duplicate mortgage and any duplicate assignment produced, before being returned, shall be stamped by the registrar with a perforating stamp bearing the words "Discharge Registered" across the signatures of the parties executing the mortgage and assignment, if any, and on the registrar's certificate of registration.

Fee not to  
be charged

(5) No additional fee shall be charged for filing the declaration referred to in subsections 2 and 3 and it is not necessary to copy the declaration in the register. R.S.O. 1950, c. 336, s. 64.

Discharge of  
mortgages  
held by  
amalgamated  
loan  
corporations

**66.** Where a loan corporation that has acquired the assets of another loan corporation by amalgamation of such corporation desires to discharge any of the mortgages of such corporation and the certificate of amalgamation has been registered, it is sufficient to set forth in the instrument to be registered the fact of the assent of the Lieutenant Governor in Council to the amalgamation with the date of the certificate of amalgamation and its registered number in the registry division in which the land affected is situate, or mentioning the Act by which the loan corporations were amalgamated or by which the agreement was ratified, and upon registration of the discharge the registrar shall enter in the abstract index the facts mentioned in the discharge. R.S.O. 1950, c. 336, s. 65.

Registration  
of discharge  
when mort-  
gage paid off  
by subse-  
quent  
mortgagee

**67.**—(1) Where a mortgage has been paid off by any person advancing money by way of a new loan on mortgage on the same land and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor has authorized, in writing, the retention of the discharge for a longer period.

Rights of  
subsequent  
mortgagee

(2) The registration does not affect the right, if any, of the mortgagee who may have paid off such mortgage, his assignee, or any person claiming under him, by purchase or otherwise, to be subrogated to the rights of the mortgagee whose mortgage debt has been so paid. R.S.O. 1950, c. 336, s. 66.

Registration  
of discharge  
given by  
person other  
than the  
mortgagee

**68.**—(1) Where the person entitled to receive the mortgage money and to discharge a registered mortgage is not the original mortgagee, he shall, at his own expense, cause to be registered before the registration of the certificate of discharge all the instruments or documents through which he

claims interest in and title to the mortgage money, and until those instruments or documents are registered the certificate of discharge shall not be tendered for registration or registered.

(2) Where it is made to appear to the judge of a county or district court that any instrument or document through which any person claims interest in and title to mortgage money has been destroyed or cannot be found, the judge may, upon such evidence by affidavit or otherwise as he may deem proper, dispense with the registration thereof and thereupon shall endorse upon the certificate of discharge or firmly attach thereto his order directing the registrar to register the certificate of discharge notwithstanding the failure to register the instrument or document, and the registrar shall thereupon register the certificate of discharge. Where document lost or destroyed

(3) The certificate shall mention the date and the date of registration and the registration number of each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage money, and the names of the parties thereto. Contents

(4) This section applies to powers of attorney where the certificate of discharge or prior instrument or document is executed by attorney, provided that it is sufficient in the certificate of discharge to state the date of each instrument, document or power of attorney and the names of the parties thereto, and to endorse on the certificate the date of registration and registration number of each instrument, document, or power of attorney, which endorsement shall be signed by the person who signed the certificate, or his attorney or agent, and the endorsement shall be deemed to be part of the certificate. Application of section

(5) Where probate of will or letters of administration with the will annexed is required to be registered under this section, and the will is over seven folios in length, including the probate or letters, and does not affect land in the registry division, except in so far as the testator was the holder of a mortgage, it is not necessary to record the will at full length, but it is sufficient to deposit a copy of and record so much of the probate or letters as shows the grant of probate or letters and the appointment of executors or administrators. Registering probate or letters of administration

(6) The copy shall be accompanied by an affidavit of the executors or administrators, or of one of them, or of his or their solicitor, verifying it and stating that there is nothing in the will limiting the right of the executors or administrators to receive the mortgage money and discharge the mortgage, and that the will does not affect land in the registry division in which the probate or letters is to be registered, except in Verification

so far as the testator was the holder of a mortgage comprising land in the registry division.

Application  
to judge for  
order to  
register  
instruments  
authorizing  
discharge to  
be given

(7) Where the person whose duty it is to register such instruments or documents refuses or neglects to register them within fifteen days after payment of the mortgage money to him, the person entitled to redeem the mortgage may, on giving ten days notice in writing to the person so refusing or neglecting, apply in a summary manner to a judge of the county or district court of the county or district wherein the land or any part thereof mentioned in the mortgage is situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the judge register the instruments or documents at his own expense, and the judge, upon being satisfied by affidavit or oral evidence that the application is a proper one, may make the necessary order.

Powers of  
judge

(8) On being satisfied of the due service of the notice the judge may proceed in the absence of the person so refusing or neglecting.

Form of  
notice

(9) The notice shall state that it is given in pursuance of this section. R.S.O. 1950, c. 336, s. 67.

Release of  
part only of  
lands  
mortgaged

**69.**—(1) Where the holder of a mortgage desires to release or discharge part of the land comprised in it, or to release or discharge part of the money secured by the mortgage, he may do so by deed or by certificate to be made, executed, proven, and registered in the same manner and with the like effect to the land or money released or discharged as when the whole land and mortgage are released and discharged.

Description  
in deed or  
certificate

(2) The deed or certificate shall contain as precise a description of the land released or discharged as is required in an instrument of conveyance for registration, and also a precise statement of the particular sum so released or discharged. R.S.O. 1950, c. 336, s. 68.

Effect of  
registration  
of discharge  
of mortgage

**70.** Every certificate of payment or discharge of a mortgage or of the conditions therein or of the lands or any part thereof, at any time given, and whether before or after the time limited by the mortgage for payment or performance, if in conformity with this Act is, when registered, a discharge of the mortgage or of the lands described in the certificate, as the case may be, and is as valid and effectual in law as a release of the mortgage or of the lands and as a conveyance to the mortgagor, his heirs or assigns of the original estate of the mortgagor therein. R.S.O. 1950, c. 336, s. 69.

Discharge of  
mortgage  
seized under  
execution

**71.**—(1) Where a sheriff, bailiff of a division court or other officer, under a writ or warrant of execution against goods,



seizes a mortgage belonging to the person against whose goods the writ or warrant has issued, on or affecting land in Ontario, the payment of the mortgage money in whole or in part to the sheriff, bailiff, or other officer by the mortgagor, or any other person or any person claiming under him, satisfies the mortgage to the extent of such payment.

(2) After payment of the mortgage money or any part thereof, the sheriff, bailiff, or other officer shall, at the request and expense of the person requiring it, give a certificate (Form 11) under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff and the seal of the court of which he is bailiff.

Form of  
certificate of  
discharge

(3) Upon the written request of the bailiff the clerk of the court shall affix to the certificate the seal of the court and he shall file the request of the bailiff in his office.

Seal of  
court

(4) The execution of the certificate shall be proved in the same manner as in the case of other instruments affecting land, and the certificate shall be registered in the same manner as other certificates of discharge.

Proof of  
execution of  
certificate

(5) The certificate when registered, if it is of payment in full of the mortgage, is as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

Effect of  
certificate

(6) The certificate when registered, if it is of payment of only a part of the mortgage money, is as valid and effectual in law as a release of the mortgage, as to such part, as if executed by the execution debtor.

Effect of  
certificate of  
part  
payment

(7) Where a mortgage has been seized by a sheriff or bailiff of the division court or other officer in the manner provided by law, and the seizure has been withdrawn, vacated or for any other reason set aside, the sheriff, bailiff or other officer under whose hand notice of seizure has issued, may give a certificate directed to the registrar in whose office the notice of seizure is registered, to the effect that the seizure has been withdrawn, vacated or set aside as the case may be, and the certificate shall be registered in the registry office in the same manner and for the same fee as a discharge of mortgage. R.S.O. 1950, c. 336, s. 70.

Notice of  
seizure of  
mortgage

**72.** Instruments of the nature mentioned in section 35 may be discharged, and the land affected thereby released therefrom by depositing in the proper registry office a certificate of discharge (Form 12). R.S.O. 1950, c. 336, s. 71.

Discharge of  
instrument  
given in  
relation to  
purchase of  
goods

Marking off  
certain  
entries

**73.**—(1) Where a mortgage registered since the 1st day of January, 1890, is purported to be discharged and the certificate purporting to be the discharge thereof has been registered for ten or more years, and wherever a certificate of *lis pendens* registered since the 1st day of January, 1890, has been vacated and the certificate of the judgment or order vacating it has been registered for two or more years, the registrar shall wherever the mortgage or the discharge thereof or any other instrument dealing exclusively with the mortgage and wherever the certificate of *lis pendens*, certificate of judgment or order vacating the same appear on any abstract index in his office, draw a line in red ink through all such entries and initial and date the same, and the lands described in the mortgage or certificate of *lis pendens* are validly discharged therefrom.

Partial  
discharge

(2) Where a certificate purporting to be a partial discharge of mortgage registered since the 1st day of January, 1890, has been registered for ten or more years and the mortgage does not affect any portion of the lot other than the portion described in the certificate of partial discharge, the provisions of subsection 1 apply to the partial discharge of mortgage in like manner as they would to the mortgage if wholly discharged.

Application  
of subss. 1, 2

(3) Subsections 1 and 2 extend to and include also instruments described in and registered under sections 35, 71 and 72.

Mechanics'  
liens

(4) Where a mechanics' lien registered since the 1st day of January, 1890, is purported to be discharged and the document purporting to be the discharge thereof has been registered for two or more years and wherever a mechanics' lien registered since the 1st day of January, 1890, has been registered for two years and no certificate of action has been registered as required by *The Mechanics' Lien Act*, and wherever a mechanics' lien has been so registered and a certificate of action has also been registered and the certificate of action has been vacated or discharged and the order or certificate of order vacating or discharging it has been registered for two or more years, the registrar shall, wherever such mechanics' lien or any assignment or discharge thereof, certificate of action, or order, or certificate of order vacating the same, appear on any abstract index in his office, draw a line in red ink through all such entries and initial and date the same and the mechanics' lien is validly discharged and the certificate of action is duly vacated.

R.S.O. 1960,  
c. 233

Partial  
discharge

(5) When a mechanics' lien has been registered as required by *The Mechanics' Lien Act* and a certificate of action has also been registered, and the certificate of action has been partially vacated or discharged, and the order vacating does not affect any portion of the lot other than the portion described in the vacating order, and the order or certificate

of order partially vacating or discharging the same has been registered for two or more years, the provisions as to striking out apply.

(6) Where the Inspector considers it advisable he may authorize a registrar to employ such additional assistance as may be necessary to do properly the work required to be done by this section and in determining the amount to be allowed for this work, the cost of such assistance shall be taken into consideration by the Inspector. R.S.O. 1950, c. 336, s. 72. Employment of additional assistance

**74.** Where an entry of an instrument in an abstract index has been struck out under section 73 and the instrument has been reproduced on photographic film under this Act, the registrar may, with the approval of the Inspector, destroy the instrument. 1958, c. 94, s. 2. Destruction of instruments

**75.—(1)** Every by-law passed after the 29th day of March, 1873, by a municipal council under the authority of which any street, road or highway is closed or under the authority of which any street, road or highway is opened upon any private property shall, before it becomes effectual in law, be registered in the registry office of the registry division in which the land is situate, and the by-law shall be registered without further proof by depositing a copy certified under the hand of the clerk and the seal of the municipality. By-laws passed since 29th March, 1873

(2) Every by-law passed before the 29th day of March, 1873, and every order and resolution of the quarter or general sessions of the peace passed before that day under the authority of which any street, road or highway has been opened upon any private property may at the election of any person or municipality interested and at the cost and charges of that person or municipality be registered by depositing a certified copy of the by-law under the hand of the clerk and the seal of the municipality, or a certified copy of the order or resolution of the quarter or general sessions under the hand and seal of the clerk of the peace. By-laws, etc., relating to roads made before 29th March, 1873

(3) Every by-law, proclamation, Order in Council, order of the Ontario Municipal Board and other instrument of a public or *quasi* public nature whereby a village, town or city becomes incorporated, or the boundaries of any municipality are enlarged, diminished or altered, shall be registered in the proper registry office by the municipality passing or procuring the same, and a copy of a by-law, certified under the seal of the corporation and by the head and the clerk of the municipality, and a copy of the proclamation, Order in Council, order of the Ontario Municipal Board or other instrument certified by the clerk of the Executive Council or the secretary of the By-laws, etc., changes in municipal boundaries

Board, as the case may be, is sufficient proof for the purpose of registration.

Authentica-  
tion of  
money  
by-laws

R.S.O. 1960,  
c. 249

Inspection

(4) A money by-law of a municipal corporation shall be authenticated for registration by the production of a duplicate original or a copy of the by-law certified as required by *The Municipal Act*.

(5) The by-law or copy so certified shall be open to public inspection and examination at all reasonable times and hours upon payment of the proper fees. R.S.O. 1950, c. 336, s. 73.

#### REGISTRATION AND ITS EFFECT

Unregistered  
instruments  
after grant  
from the  
Crown to be  
void against  
subsequent  
registered  
purchaser or  
mortgagee

**76.**—(1) After the grant from the Crown of land, and letters patent issued therefor, every instrument affecting the land or any part thereof shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless the instrument is registered before the registration of the instrument under which the subsequent purchaser or mortgagee claims.

Exception as  
to certain  
leases

(2) This section does not extend to a lease for a term not exceeding seven years where the actual possession goes along with the lease, but it does extend to every lease for a longer term than seven years. R.S.O. 1950, c. 336, s. 74.

Exception as  
to certain  
by-laws

(3) Subject to section 75, this section does not extend and shall be deemed never to have extended to,

R.S.O. 1950,  
c. 243

(a) a by-law passed before the 6th day of April, 1954 under section 390 of *The Municipal Act* being chapter 243 of The Revised Statutes of Ontario, 1950 or a predecessor of that section;

R.S.O. 1960,  
c. 296

(b) a by-law passed after the 5th day of April, 1954 under section 390 of *The Municipal Act* being chapter 243 of The Revised Statutes of Ontario, 1950 or under section 30 of *The Planning Act*;

(c) any other municipal by-law, heretofore or hereafter passed, affecting land that does not directly affect the title to land. 1954, c. 83, s. 10, *amended*.

Actual  
notice

**77.** Priority of registration prevails unless before the prior registration there has been actual notice of the prior instrument by the person claiming under the prior registration. R.S.O. 1950, c. 336, s. 75.

Equitable  
liens, and  
tacking

**78.** No equitable lien, charge or interest affecting land is valid as against a registered instrument executed by the same person, his heirs or assigns, and tacking shall not be allowed in any case to prevail against the provisions of this Act. R.S.O. 1950, c. 336, s. 76.

**79.** A registered mortgage is, as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, a security upon the land comprised therein to the extent of the money or money's worth actually advanced or supplied under the mortgage, not exceeding the amount for which the mortgage is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a conveyance, mortgage or other instrument affecting the mortgaged land, executed by the mortgagor, his heirs, executors or administrators, and registered subsequently to the first-mentioned mortgage, unless before advancing or supplying the money or money's worth, the mortgagee in the first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument, and the registration of such conveyance, mortgage or other instrument after the registration of the first-mentioned mortgage, does not constitute actual notice. R.S.O. 1950, c. 336, s. 77.

Mortgages, how affected by subsequent registered conveyances, where mortgage money's paid subsequently

**80.** The registration of an instrument under this or any former Act constitutes notice of the instrument to all persons claiming any interest in the land, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it is the duty of a registrar not to register any instrument except on such proof as is required by this Act. R.S.O. 1950, c. 336, s. 78.

Registration to be notice

**81.** An instrument that is or purports to be a power of attorney or authority to sell land in which the commission, payment for services, or other remuneration of the attorney or agent is made a charge on the land, as against a subsequent purchaser or mortgagee for valuable consideration and as against the creditors of the person giving the power or authority, ceases to charge the land with the commission, payment for services, or remuneration after the lapse of one year from the making of the instrument. R.S.O. 1950, c. 336, s. 79.

Instruments giving authority to sell and naming commission, not to bind land after one year from date

**82.** A will or the probate thereof and letters of administration with the will annexed registered within twelve months next after the death of the testator is as valid and effectual against subsequent purchasers and mortgagees as if the same had been registered immediately after the death, and in case the devisee, or person interested in the land devised in any such will, is disabled from registering the same within such time by reason of the contesting of such will or by any other inevitable difficulty without his wilful neglect or default, then the registration of the same within twelve months next after his attainment of such will, probate or letters of administration, or the removal of such impediment is a sufficient regis-

Wills to be registered within twelve months from death of testator

tration within the meaning of this Act. R.S.O. 1950, c. 336, s. 80.

Registration  
of deeds on  
sales for  
taxes and  
sales under  
process of  
court

**83.** A deed of land made by a treasurer or other officer in pursuance of a sale for arrears of taxes shall be registered within eighteen months after the sale, and a deed of land sold under process issued from any court shall be registered within six months after the sale; otherwise any person claiming under any such sale shall be deemed not to have preserved his priority as against a purchaser or mortgagee for valuable consideration without actual notice who has registered his conveyance before the registration of such deed. R.S.O. 1950, c. 336, s. 81.

Corrections

**84.**—(1) Except in the manner hereinafter provided after an instrument has been entered in the abstract and alphabetical indexes, and has been recorded in the proper registry book, no entry shall be made in the abstract index or in the alphabetical index respecting the instrument, nor shall any alteration or correction be made in any entry previously made respecting any instrument, or in any copy of any instrument in any registry book.

Method

(2) The registrar shall immediately after becoming aware of any omission or error in recording cause to be made in red ink such entries, alterations or corrections as are requisite, and a memorandum stating the date of every such entry, alteration or correction shall be made in red ink in the margin of the index or registry book opposite or near thereto, and the memorandum shall be signed by the registrar or his deputy. R.S.O. 1950, c. 336, s. 82.

When  
instruments  
to be  
deemed  
registered

**85.** An instrument capable of and properly proved for registration and in respect of which the fees prescribed by this Act or demanded by the registrar have been paid shall be deemed to be registered when and so soon as it is delivered either personally or by mail to and received at his office during office hours by the registrar, or some officer or clerk in his office on his behalf, and thereafter no alteration shall be made by any person in the instrument. R.S.O. 1950, c. 336, s. 83.

#### PLANS

Registration  
of plans  
where land  
subdivided

**86.**—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan that has not been already registered, the person making the survey and subdivision shall within three months thereafter register a plan of the land on a scale not less than 100 feet to the inch and where the registrar consents the plan may be registered on a scale of not less than 200 feet to the inch

and where the Inspector consents the plan may be registered on a scale of not less than 400 feet to the inch. 1954, c. 83, s. 12 (1); 1957, c. 107, s. 4 (1).

(2) The plan shall show the number of the township, city,<sup>Contents of plan</sup> town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land being subdivided except where the plan is a subdivision of a lot or lots on a former plan, in which case it shall show the numbers or other distinguishing marks of the lot or lots subdivided and the boundary lines thereof.

(3) The number or other distinguishing mark and the<sup>Scale and particulars</sup> width both front and rear shall be marked on each lot of the subdivision, the scale shall also be marked on the plan, and such information as will show the depth of the lots and the courses of all the boundaries of, or the division lines between the lots, and the governing line or lines to which such courses are referred shall also be indicated.

(4) The position of all the posts or monuments, if any,<sup>Idem</sup> planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

(5) The plan shall also show all roads, streets, railway<sup>Highways and topographical features</sup> land, rivers, canals, streams, lakes, mill-ponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land.

(6) On every such plan the lots shall be so described and<sup>Designation of lots</sup> designated by numbers, letters or words that there shall not be more than one lot on the plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by number the lots shall be numbered consecutively, but the provisions of this section do not apply to plans of burial plots in cemeteries. R.S.O. 1950, c. 336, s. 84 (2-6).

(7) The plan shall be drawn upon linen and shall not<sup>How plans to be registered</sup> exceed thirty inches in length by twenty-four inches in width, but where necessary the plan may be made in sections provided each section does not exceed thirty inches in length and twenty-four inches in width, and upon registration of every such plan there shall be tendered to the registrar together with the original plan a duplicate original and a true copy made by photographic film or blueprint process approved by the Inspector and mounted on stiff pasteboard of good quality. 1954, c. 83, s. 12 (2).

Where land  
is Crown  
land

(8) Where the plan is a plan of Crown land, the original plan shall remain in the custody of the Crown and upon registration of such plan there shall be tendered to the registrar two duplicate originals and a true copy made by photographic film or blue print process approved by the Inspector and mounted on stiff pasteboard of good quality. 1954, c. 70, s. 3.

Duty of  
registrars  
thereafter

(9) The plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the plan is deposited, and shall also be certified by an Ontario land surveyor (Form 13).

Registration  
of field notes  
and plans

(10) In the case of a survey hereafter made the plan shall be accompanied by a copy certified by the surveyor by whom the survey was made to be a true copy of the field notes, if any, of the survey.

Index

(11) After the registration of the plan the registrar shall keep an index of the land described and designated by any number or letter on the plan by the name by which it is so designated.

Instruments  
must  
conform to  
such plan

(12) Every instrument affecting the land or any part thereof, executed after the plan is registered, shall conform and refer thereto, otherwise it shall not be registered, except in cases provided for by section 90.

Offence for  
refusing to  
register  
plan

(13) In the case of refusal or neglect by the person making the subdivision, for two months after demand in writing for that purpose, to register the plan in accordance with the provisions of this Act, when required by any person interested therein or by the Inspector so to do, he is guilty of an offence and on summary conviction is liable to a fine of \$20 for every calendar month that thereafter elapses without the plan being registered.

Verification  
of signature  
to plans

(14) The signature on a plan shall be witnessed and verified as in the case of an instrument.

What to be  
deemed  
street or  
highway

(15) Any public or private street, way, lane or alley or block, tract or lot, being the only access to a lot or lots laid down on a plan of survey and subdivision, shall, for the purposes of this section, be deemed to be a street or highway.

Plans of  
unpatented  
lands

(16) The registrar shall not register a plan of a subdivision of land for which the Crown patent has not issued unless the assent of the Minister of Lands and Forests to the registration is endorsed on the plan.

Registrar  
not to file  
plans for  
any one but  
owner nor  
without  
consent of  
mortgagees

(17) The registrar shall not register a plan of a subdivision of land unless the person by whom or on whose behalf the plan is tendered for registration appears on the registry books to be the owner of the land, nor unless the consent in writing



of all persons who appear by the registry books to be mortgagees of the land is endorsed on the plan and signed by such persons, or in the case of a corporation, by its chief officer, and such signatures are duly verified by affidavit; provided however that nothing in this section shall be deemed to require the consent to any such plan of the owner of any easement or right in the nature of an easement in respect of the land. R.S.O. 1950, c. 336, s. 84 (8-16).

(18) The registrar shall not register a plan of subdivision of land to which *The Certification of Titles Act* applies and that is in a certification area unless the person by whom or on whose behalf the plan is tendered for registration under this Act appears on the books of the registry office to be the owner of the land and unless there has been registered a certificate of his title to the land under *The Certification of Titles Act* and the consent of all persons who appear by such certificate to have an interest in the land is endorsed on the plan and signed by such persons or, in the case of a corporation, by its chief officer, and such signatures are duly verified by affidavit. 1958, c. 94, s. 3.

Registration of plans in a certification area  
R.S.O. 1960, c. 48

(19) When any such plan has been so registered the registrar shall make a record of it and enter on it the day and year on which it is registered.

Duty of the registrar on receiving plan

(20) No plan of survey or subdivision to which *The Planning Act* applies shall be registered unless approved under that Act.

Where  
R.S.O. 1960, c. 296, applies

(21) Subject to section 91, this section applies as well to land already surveyed and subdivided as to that which may hereafter be surveyed and subdivided. R.S.O. 1950, c. 336, s. 84 (17-19).

Application of this section

**87.** The Inspector may direct that a plan index book, in the form prescribed by him, shall be kept by the registrar, and the municipal treasurer shall pay to the registrar on the order of the Inspector such sum as he may direct for the preparation in the first instance of the book and the work incidental thereto. R.S.O. 1950, c. 336, s. 85.

Plan index book

**88.—(1)** Whenever the Inspector deems that the public convenience so requires he may direct the registrar to subdivide any township, park or other lots in a city, town or village into such blocks for abstract purposes as, having regard to conveyances registered upon such lots and otherwise, he considers most convenient, and in such case an abstract index shall be prepared by the registrar for each of such blocks as if it had been originally a separate lot, and the same extends from the Crown patent onwards or from or

Abstract index to subdivisions of township or park lots in urban municipality

to such other date as the Inspector may direct, and shall contain those registrations only that affect the subdivision to which the index relates.

Idem

(2) Where the original lines of the lots do not form the boundaries of such blocks, public streets or such other limits as the Inspector directs shall be taken as the boundaries thereof.

Abstract  
index to  
original lots

(3) Where a plan of a subdivision of a lot or part of a lot has been or is registered, the registrar, when directed so to do by the Inspector, shall prepare an abstract of all instruments affecting the part subdivided, and enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on the plan.

Idem

(4) Whenever a further subdivision of any of the lots on a plan is made, the registrar, when directed so to do by the Inspector, shall prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the registration of the previous plan.

Remunera-  
tion of  
registrar

(5) The registrar shall be allowed for preparing such abstracts, so far as they relate to instruments registered prior to the Inspector's directing the subdivision, such amount as the Inspector may determine to be reasonable for the services, and the same shall be paid by the owner who registers the plan, or by the county or city, as the Inspector may direct.

Idem

(6) For abstracts prepared for the purposes of plans hereafter registered, the registrar is entitled to receive from the persons registering the plans the prescribed fees for preparing an abstract in addition to the fees to be paid for registering the plans. R.S.O. 1950, c. 336, s. 86.

Registration  
of instrument  
referring to  
an unregis-  
tered plan

**89.** No instrument referring to an unregistered plan shall be registered unless an instrument referring to the plan has been registered in respect of the same land, and, if the registrar objects to the registration of an instrument on the ground that it refers to an unregistered plan, he may refuse to register the instrument unless the person desiring its registration refers the registrar to the number of an instrument registered in respect of the same land referring to the unregistered plan. R.S.O. 1950, c. 336, s. 87.

When  
instruments  
not conform-  
ing to proper  
plan may be  
registered

**90.—(1)** Where an instrument that does not conform and refer to the proper plan has been duly executed and any party thereto has died, or where it would, in the opinion of the registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, the instrument may be registered if accompanied by an affidavit (Form 14) annexed thereto or endorsed thereon.

(2) The registrar shall thereupon enter the instrument in the abstract index in which the subdivision is entered under the lots designated in the affidavit, and no entry shall be made in the abstract index of the land before its subdivision. R.S.O. 1950, c. 336, s. 88. Duty of registrar

**91.**—(1) A plan, although registered, is not binding on the person registering it, or upon any other persons unless a sale has been made according to the plan, and in all cases amendments or alterations thereof may be authorized or ordered to be made by a judge of the Supreme Court or by a judge of the county or district court of the county or district in which the land lies, on application for the purpose and upon hearing all persons concerned, upon such terms and conditions as to costs and otherwise as may be deemed just. Plan not binding until some sale is made under it; alterations in plan

(2) Any such application may be made either by the person filing the plan or by the owner for the time being of any of the land covered thereby. Applicant

(3) An appeal lies from any such order to the Court of Appeal.

(4) No part of a road, street, lane or alley upon which any lot of land sold abuts, or which connects any such lot with or affords access therefrom to the nearest public highway, shall be altered or closed up without the consent of the owner of such lot; but nothing herein interferes with the powers of municipal corporations with reference to highways. R.S.O. 1950, c. 336, s. 89. Consent of owner to alteration or closing of road

**92.** The council of any municipality may apply to a judge of the county or district court of the county or district in which is situate the whole, or any part not being less than one-half, of the lands included in any plan, and the judge has power to make orders and directions, Powers of county or district judge to make order

- (a) for the hearing of the application upon such notice as the judge directs;
- (b) to cancel or suspend in whole or in part any registered plan;
- (c) to close, divert or alter any or all highways, roads streets or lanes shown on any such plan, either temporarily or permanently, or pending the suspension of the plan;
- (d) to provide that the lands or any part or parts thereof shown on any such plan shall thereafter, or pending such suspension or until further order of the judge, be known and described by the original township

or other registration numbers or designations used prior to the registration of any such plan, or such other numbers or descriptions as to the judge may seem convenient;

- (e) to impose such terms and conditions as to the judge may seem proper;
- (f) to fix and determine the fees and charges to be imposed and collected by registrars for all and any services under this section, and by whom the same shall be payable;
- (g) to reinstate in whole or in part any plan suspended as aforesaid,

and the judge has power to make such further or other order, direction or disposition as he, in his discretion, may deem proper. R.S.O. 1950, c. 336, s. 90.

When plan must be registered in case of lands subdivided before 4th March, 1868

**93.** In sales of land under surveys or subdivisions made before the 4th day of March, 1868, where such surveys or subdivisions so differ from the manner in which the land was surveyed or granted by the Crown that the parcel so sold cannot be easily identified unless the plan is registered, the plan shall be registered if still in existence and procurable for registration, and if it is not a new plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by an Ontario land surveyor, as nearly as may be according to the proper original survey or subdivision, and the new plan when so made, shall be registered as if under section 86. R.S.O. 1950, c. 336, s. 91.

Registration of plans of cities, towns, etc.

**94.**—(1) Where a city, town, village, or territory forming part of a township comprises different parcels of land and the same were not jointly surveyed and one entire plan of such survey made and registered, the council of the city, town, village or township, upon the written request of the Inspector, shall immediately cause a plan of the city, town, village or part of a township to be made in accordance with this Act and to be registered in the registry office of the registry division within which the municipality lies.

Authentication of plan

(2) The plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor that it is prepared according to the directions of the municipality and in accordance with this Act, and the corporate seal of the municipality shall be attached to the plan.

(3) Where such territory is situate in two or more townships the Inspector may, by a written order, cause the plan to be made and registered, and where the territory is situate in two or more registry divisions a duplicate of the plan shall be registered in each of such registry divisions.

Registration of plan of territory situate in more than one township

(4) The plan shall have endorsed thereon the certificate of the surveyor that it has been prepared according to the order of the Inspector, and the order or a copy thereof shall be attached to or endorsed on the plan.

Certificate of surveyor to be endorsed on plan

(5) The expense of the preparation and registration of a plan of territory, the inhabitants of which are not incorporated, situate wholly within one township, may be paid wholly or in part by the municipality out of its general funds, or the expense may wholly or in part, at the option of the municipality, be paid by a special rate to be levied by assessment on all rateable property comprised in such territory described by metes and bounds in a by-law to be passed for the purpose of levying such rate.

Expenses where territory within one township

(6) The expense of the preparation and registration of a plan of territory, the inhabitants of which are not incorporated, situate in two or more townships, shall be paid out of the general funds of the municipalities in which the territory is situate, in such proportions as the Inspector may order, and any municipality may levy its proportion of the expense, or so much thereof as the council sees fit, by assessment on all rateable property comprised in the part of the territory situate in the municipality as described by metes and bounds in a by-law to be passed for the purpose of levying such rate.

Expenses of registering plan of such territory in two or more townships

(7) Upon the production to the registrar of a certificate signed by the head of the municipal council concerned certifying that a surveyor has been employed by the council to prepare a plan for registration under this section, the surveyor named in the certificate is entitled, within six months from the date thereof, to make personal searches of the books, plans and instruments in the registry office for the purpose of enabling him to prepare the plan on payment of the ordinary fees payable for searches and productions up to an aggregate amount not exceeding \$25, and for all further searches and productions in excess of \$25 on payment of one-half of the ordinary fees.

Rights of surveyor

(8) Except as otherwise provided in this section, the expense of the preparation and registration of the plan shall be paid out of the general funds of the municipality.

Payment of expenses

(9) In case of the neglect or refusal of a municipality to comply with all the requirements of this section within six months next after being required so to do, the municipality is

Offence for municipality defaulting

guilty of an offence and on summary conviction is liable to a like fine to that provided by subsection 13 of section 86.

Registration  
of plans of  
township  
subdivisions  
in certain  
cases

(10) Where land in a township has been or is sold under surveys or subdivisions made in a manner which so differs from that in which the land was surveyed or granted by the Crown that the parcel sold cannot be easily identified, and the plan has not been registered under this or any other Act, the council of the township may, upon the written request of the Inspector or of any person interested, cause a plan of the land to be made and registered in the same manner and with the same effect as in the case of territory the inhabitants of which are not incorporated, and the expenses of the preparation and registration of the plan shall be paid by a special rate to be levied by assessment on the land comprised in the plan as described in a by-law to be passed for the purpose of levying such rate.

Plans of  
municipali-  
ties, what  
to be  
shown on

(11) A plan prepared under subsection 1 or 10 shall show such subdivisions of original lots as are shown by the registered plans, and such as are not so shown but appear from the instruments relating to the land, with each of the lots as shown on the new plan numbered or lettered in such a manner that they may be readily identified, and the plan shall be prepared without adding to the costs thereof the expense of any actual survey on the ground except such as may be necessary to connect the subdivisions or parcels of land and to show any natural or artificial boundaries of the same that cannot be shown on the new plan from the information contained in the registered plans and instruments

Obligations  
not impaired

(12) Nothing in this section relieves any person from any liability, duty, obligation or penalty provided or imposed by or under any of the provisions of this Act.

Power of  
county judge  
to order  
plans to be  
filed.

(13) Where any land has been sold or conveyed in lots or parcels by metes and bounds, or in any other manner without a plan having been registered under this or any other Act showing such subdivisions, or where parts of lots shown by a registered plan have been sold or conveyed, and the lots or parcels so sold or conveyed are not distinguished by numbers or letters, a judge of the county or district court of the county or district in which the land is situate, on the application of the Inspector, after such notice as the judge may deem reasonable, may make an order directing the registrar to have the same, or any part thereof, laid out into lots or parcels in such manner and numbered as the judge thinks fit, and a plan or plans thereof to be made in accordance with the records in the registry office, or from actual survey, as may be found necessary, and registered in accordance with the provisions of

this Act, and the order of the judge shall be endorsed on or attached to the plan and signed by him.

(14) The costs and expenses of and incidental to the application and the plan and the registration thereof shall be borne by the person or municipality to be named by the judge in the order, and, where the costs and expenses are directed to be borne by the municipality, the judge may by his order direct repayment of them to the municipality by the levy of a special rate by assessment on all the lots included in the plan. Costs

(15) On filing the order with the clerk the order may be enforced as if it were a judgment of the court. Effect of filing order

(16) The registration of the plan is binding on all persons subsequently dealing with the land or any part thereof included in the plan or any interest in or concerning the same, but does not affect the rights or interests of any owner or other person entitled at or before the date of registration. Effect of registration

(17) Where land is proposed to be subdivided by plan under subsection 13, the Inspector may cause the Attorney General to be notified of the application, and the Attorney General, on behalf of the Crown, may either submit that the Crown shall pay or contribute such part of the costs and expenses mentioned in subsection 14 as the judge may determine to be reasonable, or the Attorney General may consent, on behalf of the Crown, that the Crown shall pay and contribute a definite part of such costs and expenses, and in either of such cases the judge may direct by what person or municipality the remainder of such costs and expenses shall be borne, and any such order may be entered and filed and may be enforced as against such person or municipality in the same manner as the order provided for in subsection 14. R.S.O. 1950, c. 336, s. 92. Contribution by Crown to cost of plan under subs. 13

**95.**—(1) Every person who is required to register a plan shall, with the plan, deposit with the registrar a duplicate thereof and a copy of the surveyor's field notes, if any, certified to be such by the surveyor who prepared the plan, and the registrar shall endorse on the duplicate a certificate showing the number of the plan and the date when the plan was registered, and the duplicate shall, without fee, be delivered by the registrar to the clerk, treasurer or assessment commissioner of the local municipality in which the land is situate. Deposit of duplicate plan and field notes, and delivery of duplicate to municipality

(2) The registrar shall not register any such plan unless a duplicate thereof and a certified copy of the surveyor's field notes, if any, are deposited in accordance with this section. R.S.O. 1950, c. 336, s. 93. Duty of registrar

Designation  
of sub-  
division  
plan areas

**96.**—(1) The Inspector may by direction designate an area as a subdivision plan area and thereafter no instrument by way of a deed on a sale of land in the area shall be registered,

- (a) unless the land is described in accordance with and is within a registered plan of subdivision, but the Inspector may in his direction designate land which although within a registered plan of subdivision shall be deemed not to be within a registered plan of subdivision for the purposes of this subsection; or
- (b) unless the land conveyed is more than 10 acres in area; or
- (c) unless the land conveyed is the whole part remaining to the person of one parcel described in a registered conveyance to him.

Registration  
of direction

(2) The direction shall be registered against the abstract indexes of all the land affected thereby.

Alteration  
and with-  
drawal of  
direction

(3) A direction under this section, although registered, may be altered or withdrawn by direction of the Inspector and such direction shall be registered against the abstract indexes of the lands affected thereby. R.S.O. 1950, c. 336, s. 94.

#### REREGISTRATION WHERE REGISTRY BOOKS LOST, ETC.

Reregistra-  
tion in case  
registry  
books or  
papers are  
lost or  
destroyed

**97.** Where the registry books and papers were, before the 4th day of March, 1868, lost or destroyed, and a memorial cannot be produced, upon proof being made to that effect before a judge of any court of record to his satisfaction as evidenced by a certificate under his hand, the registrar may reregister an instrument upon production thereof, and no further proof is required than the original certificate of registration endorsed on the instrument and the instrument has priority according to the date of the original certificate and shall be preserved by the registrar with the records of his office. R.S.O. 1950, c. 336, s. 95.

Inspector  
may order  
copying of  
memorials

**98.** Where memorials have not been copied into the registry books in their proper order the Inspector may cause them to be entered in proper books to be procured for the purpose, in the manner provided by section 20, and the registrar shall be paid therefor in the same manner as under clause 1 of section 99. R.S.O. 1950, c. 336, s. 96.

(NOTE.—As to list of Crown grants being furnished to registrar, see *The Public Lands Act*, R.S.O. 1960, c. 324, s. 37, and as to proceedings where land patented is in territory under *The Land Titles Act*, see that Act, R.S.O. 1960, c. 204, s. 35.)



## FEES OF REGISTRARS

**99.** Except where otherwise provided, a registrar is entitled <sup>Fees:</sup> to the following fees:

- (a) For registering every certificate of discharge of mortgage including the certificate of registration, \$2.50, and for registering every other instrument and one duplicate, if any, including the certificate of registration, \$4.50. <sup>Registering instruments</sup>

If the instrument embraces lots or parcels of land situate in different municipalities in the same registry division, the registration and copying of the instrument, together with all necessary entries and certificates in connection therewith, shall be considered separate and distinct registrations for each municipality in which the land is situate.

If the instrument embraces more than four lots or parcels of land in the same municipality, the registrar shall be allowed a fee of 5 cents for entering each lot or parcel in excess of four.

- (b) For searching the registry books and indexes relating <sup>Searching lots</sup> to the title of any lot or part of a lot, 50 cents.
- (c) For searching the alphabetical index of names referred <sup>Searching alphabetical index</sup> to in section 30, as to each name in the books of any one township or other municipality in the registry division, 50 cents; but if a general search as to any such name is made throughout the registry division, the aggregate of fees for the search shall not exceed \$2.
- (d) For searching the general register referred to in <sup>Searching general register</sup> section 20, as to each name, 50 cents.
- (e) For an abstract of title to any parcel of land containing such particulars as to any number of registered instruments affecting the parcel as the applicant may require, a minimum fee of \$3 including the fee for search and certificate, and in addition, for each instrument that requires inspection, 10 cents. <sup>Abstract of title</sup>

Where the abstract exceeds 100 words, 20 cents for each additional 100 words or part thereof.

- (f) For each certificate furnished by the registrar, except <sup>Certificates</sup> a certificate under clause a, 50 cents.
- (g) For registering every plan of subdivision, including all <sup>Registering plan</sup> necessary entries connected therewith, \$8; but if the plan embraces more than twenty lots, the registrar shall be allowed a fee of 10 cents for each lot in excess of twenty lots.

Searches in connection with registering a plan

- (h) For searching for the names of registered owners and for mortgagees under subsection 17 of section 86 in connection with the registration of a plan, \$1; but if the search embraces more than twenty lots, 5 cents for each lot in excess of twenty lots.

Statement under s. 24 or 26

- (i) For furnishing copies required under section 24 or 26, 10 cents for each 100 words or fraction thereof.

Repairing books, etc.

- (j) For repairing under section 26 any book, or copying, mounting or binding plans, or for new plans and surveys, or for new abstract indexes, such sums as the Inspector may order in writing, specifying the nature of the service.

On payment of taxes

- (k) For registering certificate of payment of taxes, 25 cents.

Notices of sale

- (l) For registering notice of sale of land under power in mortgage, 50 cents.

Declaration for general register

- (m) For registering a declaration for registering instrument entered in general register, 50 cents.

Notice of liability under R.S.O. 1960, c. 242

- (n) For entering notice of liability to taxation and forfeiture under *The Mining Tax Act*, 50 cents a lot.

Instruments

- (o) For copies of instruments when required, 15 cents for each 100 words or fraction thereof.

Production of instruments

- (p) For exhibiting in the office each original registered instrument including search therefor, 10 cents, and for producing each original registered instrument including search therefor in pursuance of a judge's order or subpoena, 10 cents in addition to the registrar's ordinary witness fees. 1957, c. 107, s. 5.

Alterations in registrars' fees

**100.** The Lieutenant Governor in Council may from time to time amend, repeal or add to any of the clauses or items in section 99. R.S.O. 1950, c. 336, s. 98.

Fees in cases not provided for

**101.** Where an Act of Ontario or of Canada requires or permits an instrument, document or plan to be deposited, filed or registered in a registry office or requires a registrar to perform any other duty, but omits to provide fees to the registrar for his services in connection therewith, and no fees therefor are provided by this or any other Act, the registrar, in the absence of any express provision requiring him to perform such services gratuitously, is entitled to such reasonable fees therefor as the Inspector shall fix to be paid by the person requiring the service to be performed. R.S.O. 1950, c. 336, s. 99.

**102.** In abstracts and certificates where figures are used <sup>Figures</sup> instead of words to denote dates, numbers and quantities, the same shall be charged for as if each number, though composed of several figures, were but one word. R.S.O. 1950, c. 336, s. 100.

**103.** Subject to any general rules made under *The Land Titles Act*, a master or local master of titles may, by himself or by his clerks, without payment of fees, inspect all books and papers in a registry office for his own information as such master, but this provision does not apply to an application in which an abstract of title obtained for the purpose of such application has not been filed. R.S.O. 1950, c. 336, s. 101. <sup>Inspection of books in registry offices by master or local master of titles  
R.S.O. 1960, c. 204</sup>

**104.**—(1) Where a dispute arises in regard to any question of fees under this Act, the registrar shall forthwith submit the dispute to the Inspector, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Inspector upon the question submitted is final, unless appealed from and varied upon appeal as hereinafter mentioned. <sup>Disputes as to fees</sup>

(2) All decisions given by the Inspector shall be in writing, and the appeal therefrom shall be in like manner, and subject to the same rules of practice as nearly as may be as an appeal from a local master. R.S.O. 1950, c. 336, s. 102. <sup>Inspector's decisions  
Appeals</sup>

**105.**—(1) Every registrar shall keep posted up in some conspicuous place in his office a printed schedule of the fees and charges authorized under this Act. <sup>Table of fees to be posted in registrar's office</sup>

(2) Every registrar shall, upon request of the person for whom the service is performed, furnish a statement in detail of the fees charged by him in respect of any matter for which fees are payable under this Act. R.S.O. 1950, c. 336, s. 103. <sup>Registrar to give statement of fees payable in any matter</sup>

**106.** If the treasurer of a county or of a city in which a separate registry office is established refuses or neglects to pay the fees and allowances for any services required by this Act and performed by him which the registrar has requested and which the treasurer ought to pay, the registrar may sue for and recover the same from the corporation of the county or city, as the case may be, in any court of competent jurisdiction, and the Inspector's certificate of the amount and of the services rendered is *prima facie* evidence of the right to recover. R.S.O. 1950, c. 336, s. 104. <sup>Recovery of fees from municipal corporations</sup>

**107.**—(1) Every registrar shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him, showing separately the sums received for <sup>Registrars to keep accounts of fees</sup>

registering each instrument, and for searches and for extracts or copies.

Registrar's  
annual  
returns

(2) Every registrar shall annually, on or before the 15th day of January, make to the Lieutenant Governor a return up to and including the 31st day of December of the next preceding year which shall show,

- (a) the number of instruments registered and the fees therefor;
- (b) the number uncopied and uncomparred;
- (c) the number of patents registered and fees therefor;
- (d) the number of deeds registered and fees therefor;
- (e) the number of mortgages registered and fees therefor;
- (f) the number of discharges of mortgages registered and fees therefor;
- (g) the number of wills registered and fees therefor;
- (h) the number of leases registered and fees therefor;
- (i) the number of abstracts and fees therefor;
- (j) the number of searches and fees therefor;
- (k) the number of mechanics' liens and fees therefor;
- (l) the number of all other instruments registered or deposited and fees therefor;
- (m) the amount received for work done for which the county, city or other municipality is liable;
- (n) the amount received for other services not enumerated above;
- (o) the gross amount of fees earned for the year;
- (p) the gross amount earned for the previous year;
- (q) the amount paid to the deputy registrar for services and the amount of other charges in connection with the office paid by the registrar;
- (r) the amount of surplus paid to the county or city for the year and when paid;
- (s) the amount of such surplus for the previous year;
- (t) the net amount received by registrar.

Other  
information

(3) The return shall also contain such other information as may be prescribed by the Lieutenant Governor in Council.

(4) The return shall be transmitted to the Inspector. R.S.O. 1950, c. 336, s. 105. Return to be transmitted to Inspector

**108.**—(1) Upon the request of the council of a municipality, the registrar shall furnish annually, semi-annually or monthly in accordance with the request a list of all conveyances by which land in the municipality has been transferred, mortgaged or leased that have been registered in his office during the period specified in the request, and the list shall include, in respect of each such conveyance, the names and addresses of the parties, the consideration and a short description of the land. 1954, c. 83, s. 13. Registrar to furnish municipality with list of conveyances

(2) The registrar is entitled to a fee of 10 cents for every conveyance entered in the list. R.S.O. 1950, c. 336, s. 106 (2). Fees

**109.**—(1) Every registrar is entitled to retain to his own use in each year his net income up to \$5,000. R.S.O. 1950, c. 336, s. 107 (1); 1957, c. 107, s. 6 (1). Registrar's emoluments

(2) Subject to section 113 of this Act and to section 5 of *The Land Titles Act*, every registrar shall, of the net income of each year over \$5,000, pay to the treasurer of the county or city for which or for part of which he is registrar, the following percentages: Where net income exceeds \$5,000 R.S.O. 1960, c. 204

1. On the excess over \$5,000 up to \$6,000, 50 per cent.
2. On the excess over \$6,000, 90 per cent. R.S.O. 1950, c. 336, s. 107 (2); 1957, c. 107, s. 6 (2).

(3) Notwithstanding subsections 1 and 2, the Lieutenant Governor in Council may fix the remuneration to be paid to any registrar. R.S.O. 1950, c. 336, s. 107 (3). Lieutenant Governor may fix remuneration

**110.** Where it appears by return to the Lieutenant Governor or to any department of the Government that in any year a registrar of deeds or an officer holding the office of registrar of deeds and local master of titles has derived from the fees, emoluments and salary, if any, of his office, after deducting necessary disbursements, an income that is less than his fixed annual salary, there may be paid on the report of the Inspector to such registrar or officer, out of the Consolidated Revenue Fund, an amount sufficient to make up the income for the year to his fixed annual salary, if the Lieutenant Governor in Council so directs. R.S.O. 1950, c. 336, s. 108; 1957, c. 107, s. 7. Additional grant in certain cases

**111.** For the purposes of this Act, "net income" means the excess of all fees and emoluments earned during the calendar year after deducting the disbursements incident to the business of the office. R.S.O. 1950, c. 336, s. 109. Interpretation

Deduction  
for expenses  
not to be  
increased  
without  
consent of  
Inspector

**112.** The deduction from the gross income for the expenses connected with the work of, or in conducting the business of the offices of the registrars shall not be increased beyond the amount paid therefor in the year 1917, without the consent in writing of the Inspector. R.S.O. 1950, c. 336, s. 110.

Payment of  
surplus fees

**113.**—(1) On the 15th day of January in each year every registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is registrar a duplicate of the return required by section 107, and shall also pay to such treasurer for the use of the municipality the percentages required by this Act to be paid by him.

How  
computed in  
certain  
cases

(2) Where a registry division includes a county or part of a county and a city or town separated from the county for municipal purposes, the percentages shall be paid to the treasurer of the county and to the treasurer of the city or town for the use of the municipality in the proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of land situate in the county, and in the city or town respectively. R.S.O. 1950, c. 336, s. 111.

Registrars to  
send  
statement of  
amounts paid  
to head of  
municipality

**114.** Every registrar shall, on or before the 7th day of January in each year, transmit to the head of any municipality to which he has made payments in accordance with the provisions of this Act during the next preceding year a statement signed by him showing the amounts so paid and the dates of payment, and the head of the municipality receiving the statement shall cause it to be laid before the auditors when auditing the accounts of that year, and shall also read it at the first meeting of the council held after its receipt. R.S.O. 1950, c. 336, s. 112.

Return as  
to fees where  
registrar dies  
or vacates  
office

**115.**—(1) In the case of the death, resignation or removal from office of a registrar, a like return as that mentioned in section 107 shall be made by such registrar or his legal representative, for the portion of the year during which he held office, and in all cases where, during the year the office has been in charge of more than one person, a like return shall be made by each such person for the portion of the year he had charge of the office.

Allowances  
and percent-  
ages, how  
computed

(2) The allowances and percentages in section 109 are upon a yearly basis and shall be made and computed upon the net income of the office for the whole of the calendar year, and this whether or not the office was held by one person or more than one person during such year.

(3) Where more than one person has held the office in any calendar year, each of such persons shall pay an aliquot part of the percentage payable for the year, based upon the portion of the year during which he was in office. When office held by more than one person during year

(4) Subsection 2 of section 113 applies to the proportion of fees mentioned in this section. R.S.O. 1950, c. 336, s. 113. Application of s. 113, subs. 2

**116.** In ascertaining the percentages payable under this Act there shall not be included in the fees and emoluments any sum receivable from a municipality for the preparation of abstract indexes, or for work done under section 24 or 26, or subsection 5 of section 88 or section 108, and nothing in this Act applies to the fees or emoluments received on account of services as returning officer under *The Election Act* or the *Canada Elections Act*. R.S.O. 1950, c. 336, s. 114. Certain fees not to be included in payments to municipalities  
R.S.O. 1960, c. 118  
R.S.C. 1952, c. 23

**117.** The head of a municipal council or the treasurer or the auditor of a municipality may inspect the books including bank books of any registry office for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the municipality is or may become entitled, and the registrar shall at all convenient times allow such books to be inspected for that purpose free of charge. 1957, c. 107, s. 8. Inspection of registry books by municipal officers

**118.**—(1) Section 109 applies to the registrars in the provisional judicial districts, but the percentages therein provided for shall, in their case, be payable to the Treasurer of Ontario, and when the registrar is also local master of titles, the income upon which the percentages are to be computed shall be that received from the combined offices. Percentages in districts to be payable to Province

(2) Subsection 1 does not apply to any registrar who is paid by salary. R.S.O. 1950, c. 336, s. 116. Exception

**119.** The amount to be allowed for the disbursements of a registrar is subject to the revision and determination of the Inspector. R.S.O. 1950, c. 336, s. 117. Disbursements subject to revision of Inspector

**120.** The Lieutenant Governor in Council may make rules for the management of registry offices, and may, by such rules, confer on the Inspector such powers as may be deemed necessary for carrying out the provisions of this Act and all other Acts relating to the duties of registrars. R.S.O. 1950, c. 336, s. 118. Lieutenant Governor may make rules

#### INSPECTOR

**121.** The Inspector shall,

- (a) make as often as practicable a personal inspection of the building in which each registry office is kept, Duties of Inspector: inspection of building

and of the books, deeds, memorials and other instruments in each office;

- |                               |   |
|-------------------------------|---|
| books, etc.                   | (b) see that the proper books are provided, that they are in good order and condition, that the proper entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed, certified and preserved; |
| office hours                  | (c) ascertain that the office is kept open at and for the proper times, and that it is at all times duly attended by the registrar or his deputy;   |
| seals of officials            | (d) settle on some uniform device for the official seals, and see that the registrars supply themselves therewith;  |
| new indexes                   | (e) inspect all new abstract and alphabetical indexes, and settle and certify the sums, if any, chargeable therefor;  |
| plans                         | (f) ascertain whether the proper plans required by this Act have been registered, and, where necessary, enforce the provisions of this Act as to the preparation and registration thereof, and instruct the Crown attorney to take proceedings for that purpose;  |
| reporting vacancies           | (g) report upon any vacancies by death or otherwise in the office of registrar or deputy registrar;   |
| instruction of registrar      | (h) inform the registrar how and in what manner he shall do any particular act or amend or correct whatever the Inspector may find amiss, and if he finds the work improperly performed, order a new book or books to be prepared and completed by the registrar at his own expense;  |
| securities                    | (i) ascertain the sufficiency of the security furnished by the registrar;   |
| report to Lieutenant Governor | (j) report upon all such matters to the Lieutenant Governor for his information and decision; and   |
| other duties                  | (k) perform such other duties as the Lieutenant Governor in Council may prescribe. R.S.O. 1950, c. 336, s. 119.   |

Evidence on investigations by Inspector

**122.** Where the Inspector in the performance of his duties under this Act has occasion to make an inquiry or to determine any matter he may require any person to give evidence on oath, and for that purpose may summon the person to attend as a witness, may enforce his attendance, may compel him to produce books, documents and things, and to give



evidence in like manner as the Supreme Court may in civil cases. R.S.O. 1950, c. 336, s. 120.

**123.** Every registrar shall transmit to the Inspector such particulars with reference to the business of his office as the Inspector may require. R.S.O. 1950, c. 336, s. 121.

Registrars to furnish information to Inspector

**124.** Where it appears to the Inspector that the work of a registry office is unduly in arrear he may employ such persons as he deems necessary to perform the work in arrear, and the cost thereof shall be payable by the registrar to the persons entitled on the certificate of the Inspector. R.S.O. 1950, c. 336, s. 122.

Duty of Inspector on finding work in arrear

#### PENALTY FOR ALTERING BOOKS OR DOCUMENTS

**125.** Any person, except the registrar or other officer when entitled by law so to do, who alters any book, record, plan or registered instrument in any registry office, or makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of such book, record, plan or registered instrument, and any person who removes or attempts to remove any instrument registered or deposited in a registry office from such office without lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$100. R.S.O. 1950, c. 336, s. 123.

Offence for unauthorized alteration of entry

#### SPECIAL PROVISION RELATING TO TORONTO

**126.** The registrar, deputy registrars, clerks, officers and employees employed in the registry office for the Registry Division of Toronto shall be paid out of the receipts of the office, such salaries as may be approved by the Lieutenant Governor in Council, and subject to the regulations the fees prescribed by this Act shall be collected and accounted for by such persons and in such manner as the Inspector may direct. R.S.O. 1950, c. 336, s. 125 (1).

Salaries

**127.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) respecting the registers, plans, instruments and other books, documents and records to be kept in the registry office for the Registry Division of Toronto;
- (b) prescribing the furnishing, equipment and accommodation to be provided in the said registry office;
- (c) for the organization of the office and the appointment of deputies, officers, clerks and employees and prescribing their respective duties;

- (d) prescribing the method in which fees and other receipts of the office shall be collected, kept and accounted for;
  - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1950, c. 336, s. 126.

Effect of  
1957 amend-  
ment when  
proclaimed

**128.** The amendment to subsection 2 of section 84 of *The Registry Act* in subsection 2 of section 4 of *The Registry Amendment Act, 1957* when proclaimed in force shall be deemed to be an amendment to subsection 2 of section 86 of this Act. *New.*

#### FORM 1

(Section 11)

#### REGISTRAR'S OATH OF OFFICE

County (or District) of } I (name and describe the deponent), having been appointed  
To Wit: } to the office of Registrar, in and for the (name of Registry Division, etc.), do swear that I will well, truly and faithfully perform and execute all the duties required of me under the laws of Ontario pertaining to the office so long as I continue therein, and that I have not given directly or indirectly, nor authorized any person to give, any money, gratuity or reward whatsoever for procuring the office for me.

Sworn before me, etc.

*A Commissioner, etc.*

R.S.O. 1950, c. 336, Form 1.

#### FORM 2

(Section 23)

#### CERTIFICATE RESPECTING REGISTRY BOOKS

This register contains.....pages, exclusive of index, and is to be used for the City (or Town, Village or Township) of....., in the County (or District) of..... for the recording of deeds, duplicates, and other instruments under the provisions of *The Registry Act*, and is provided in pursuance of such Act.

Dated this.....day of....., 19.....

R.S.O. 1950, c. 336, Form 2.

FORM 3  
(Section 29 (1) )

ABSTRACT INDEX

Township of....., Lot No.....in the.....Concession.

1	2	3	4	5	6	7	8	9
No. of In- stru- ment.	In- stru- ment.	Its Date.	Date of Regis- try.	Grantor.	Grantee.	Quan- tity of Land.	Consid- eration in con- veyance or amount of mort- gage money.	Re- marks.

NOTE.—The names of all the grantors and grantees should appear in the abstract index.

R.S.O. 1950, c. 336, Form 3.

FORM 4  
(Section 30)

ALPHABETICAL INDEX

No. of Instru- ment.	GRANTOR.	GRANTEE.	No. of Instru- ment.	GRANTEE.	GRANTOR.

R.S.O. 1950, c. 336, Form 4.

## FORM 5

(Section 34 (1) )

## AFFIDAVIT OF EXECUTION

County (or District) of } I, (*name, residence and occupation*), make  
To Wit: } oath and say:

1. That I was personally present and did see the annexed (*or within*) instrument (and a duplicate, *if any, according to the fact*) duly signed, sealed and executed by .....  
part.....thereto.

2. That the instrument (and duplicate, *if any, according to the fact*) was (*or were*) executed by the part.....at the.....  
.....of.....

3. That I know the part.....

4. That I am a subscribing witness to the instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

R.S.O. 1950, c. 336, Form 5.

## FORM 6

## AFFIDAVIT OF EXECUTION WHERE THE INSTRUMENT IS A SECURITY UNDER SECTION 35

County (or District) of } I, (*name, residence and occupation*), make  
To Wit: } oath and say:

1. That I was personally present and did see the annexed (*or within*) instrument (and a duplicate, *if any, according to the fact*), duly signed, sealed and executed by .....  
part.....thereto.

2. That the instrument was read over in my presence and explained to....., and that he appeared perfectly to understand the same, and was informed that it might be registered as an encumbrance on his land.

3. That the instrument (and duplicate, *if any, according to the fact*), was (*or were*) executed by the part.....at the.....  
.....of.....

4. That I know the part.....

5. That I am a subscribing witness to the instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

R.S.O. 1950, c. 336, Form 6.

## FORM 7

(Sections 40, 49 (1) )

CERTIFICATE OF THE JUDGE OF THE COUNTY OR DISTRICT COURT IN LIEU  
OF AFFIDAVIT OF EXECUTION

I,.....  
 County (or District) of } Judge of the County (or District) Court of  
 To Wit: } the County (or District) of.....  
 certify that, from the proof adduced by (name  
*of the person producing the proof*), I am satisfied of the due execution of the  
 within instrument (or of the instrument whereof the within is a copy,  
 memorial or duplicate, as the case may be).

As witness my hand at.....the.....  
 day of....., 19.....

Judge.

R.S.O. 1950, c. 336, Form 7.

## FORM 8

(Sections 50, 54 (1), 64 (3) )

## CERTIFICATE OF REGISTRATION

I certify that the within.....instrument is duly  
 entered and registered in the Registry Office for the Registry Division  
 of.....in Book.....for the.....of.....  
 at.....o'clock.....of the.....day of.....  
 19....., Number.....

*or where the instrument is microfilmed*

I certify that the within.....instrument is duly  
 entered and registered in the Registry Office for the Registry Division  
 of.....at.....o'clock.....of the.....  
 day of....., 19....., Number.....  
 for the.....of.....

Registrar,  
 or Deputy Registrar.

R.S.O. 1950, c. 336, Form 8; 1955, c. 70, s. 6.

## FORM 9

(Section 55)

## MINUTE OF REGISTRATION

Entered and registered this.....day of.....,  
 19.....at.....o'clock.....m.

Registrar (or Deputy Registrar).

R.S.O. 1950, c. 336, Form 9.

## FORM 10

(Section 65 (1) )

## DISCHARGE OF MORTGAGE

To the Registrar of the Registry Division of.....

I, ....., of ....., do certify that..... has satisfied all money due on, or to grow due on (or has satisfied the sum of \$..... mentioned in), a certain mortgage made by..... of..... to..... which mortgage bears date the..... day of ....., 19....., and was registered in the Registry Office for the Registry Division of..... on the..... day of ....., 19....., at..... minutes past..... o'clock,..... noon, in Book..... for..... as No..... (here mention the date and the date of registration of each assignment thereof, and the names of the parties, or mention that such mortgage has not been assigned, according to the fact), and that I am the person entitled by law to receive the money, and that such mortgage (or such sum of money as aforesaid, or such part of the land as is herein particularly described, that is to say:.....) is therefore discharged.

Witness my hand this..... day of ....., 19.....

Witness }

R.S.O. 1950, c. 336, Form 10.

## FORM 11

(Section 71 (2) )

## CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the Registry Division of.....

I, A. B., of ....., Sheriff of the County (or District) of ....., [or Bailiff of the (number) Division Court of the County (or District of.....)] do certify that by virtue of an execution wherein C. D. is plaintiff and E. F. defendant, issued out of the Supreme Court (or as the case may be) and to me directed, I seized a certain mortgage made by one J. H. of (as described in the mortgage) bearing date the..... day of ....., 19....., and registered at..... of the clock in the..... noon, of the..... day of..... in Book..... for..... as No..... to E. F., of..... (as described in the mortgage), the defendant in the execution named, and such mortgage has not been assigned (or has been assigned to the defendant: here set out date and date of registration of assignment) and I do further certify that I have received from the mortgagor, (or from the executors, administrators, or assigns of the mortgagor, as the case may be), the full amount of the mortgage (or \$..... part of the mortgage money), and that such mortgage is therefore discharged (or that such mortgage is as to \$..... part of the money thereby payable, discharged).

As witness my hand and seal of office (or the seal of the said Court) this..... day of ....., 19.....

A. B.

Witness }

R.S.O. 1950, c. 336, Form 11.

## FORM 12

(Section 72)

## CERTIFICATE OF DISCHARGE OF INSTRUMENT CREATING A CHARGE

To the Registrar of the Registry Division of.....  
 County (or District) of } I, (name, residence and occupation), do hereby  
 To Wit: } certify that.....of the  
 .....of.....  
 in the County (or District) of.....(occupation).....  
 has satisfied all money due or to grow due on (or has satisfied the sum of  
 \$......mentioned in) a certain instrument made by.....  
 of.....to....., which instrument bears date the.....  
 day of....., 19....., and was registered in the Registry Office for  
 the Registry Division of.....on the.....day of.....  
 ....., 19....., at.....minutes past.....o'clock.....  
 .....noon, in Book.....for....., as No.....  
 (here mention the date and the date of registration of each assignment thereof,  
 and the names of the parties, or mention that such instrument has not been  
 assigned, according to the fact), and that I am the person entitled by law  
 to receive the money, and that such instrument (or such sum of money  
 as aforesaid, or such part of the land as is herein particularly described,  
 that is to say:.....) is therefore discharged.  
 Witness my hand this.....day of....., 19.....

Witness }

R.S.O. 1950, c. 336, Form 12.

## FORM 13

(Section 86 (9) )

## THE REGISTRY ACT

## CERTIFICATE OF AN ONTARIO LAND SURVEYOR

I, (name in full), an Ontario Land Surveyor certify,

1. That I was present at and did personally superintend the survey represented by this plan.
2. That this plan accurately shows the manner in which the lands (edged in red) have been surveyed and subdivided by me.
3. That every angle of the exterior boundary of the plan is defined in the survey thereof by a monument and a monument is placed at one angle of each street intersection shown on the plan.
4. That I have indicated on the plan the position and form of each of the monuments.
5. That the monuments conform in all respects to requirements of section 55 of *The Surveys Act*.
6. That the survey was made by me between the.....day of.....and the.....day of.....
7. That the survey has been accurately made in accordance with all the provisions of *The Surveys Act* and *The Registry Act* relating thereto.

Dated at.....the.....day of....., 19.....

Ontario Land Surveyor.

R.S.O. 1950, c. 336, Form 13.

FORM 14

(Section 90)

AFFIDAVIT WHERE INSTRUMENT DOES NOT CONFORM TO PLAN

County (or District) of } I, (name, residence and occupation), make  
To Wit: } oath and say:

1. To the best of my knowledge and belief, the land described in the within (or annexed) instrument is designated on Registered Plan No. ....as lots (describe same so as to conform to plan).

2. That....., a party to the instrument, died on or about the.....day of....., 19....., (or as the case may be).....or.....

3. That it is impossible (or inconvenient) to obtain a new instrument or a re-execution of the instrument containing a description conforming to the plan for the following reasons (here set out the facts).

4. That I have a personal knowledge of the matters herein deposed to.  
Sworn, etc.

R.S.O. 1950, c. 336, Form 14.

FORM 15

DECLARATION UNDER SECTION 33 (2)

County (or District) of } I, (name, residence and occupation), do solemnly  
To Wit: } declare that,

1. I am a party (or as the case may be) to an instrument affecting land without local description, registered in the Registry Division of.....on the.....day of....., 19....., at.....minutes past.....o'clock.....noon, in Book....., as number.....

2. The instrument affects the land within such Registry Division hereinafter described, that is to say (here give a local description of the lands sufficient for the purposes of registering an instrument in the separate Registry Books under the Act).

And I make this solemn declaration, etc.  
Declared, etc.

R.S.O. 1950, c. 336, Form 15.



## CHAPTER 349

## The Regulations Act

## 1. In this Act,

Interpre-  
tation

- (a) "file" means file in the manner prescribed in section 2;
- (b) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) "Registrar" means the Registrar of Regulations;
- (d) "regulation" means a regulation, rule, order or by-law of a legislative nature made or approved under an Act of the Legislature by the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council, but does not include,
  - (i) a by-law of a municipality or local board as defined in *The Department of Municipal Affairs Act*, R.S.O. 1960, c. 98
  - (ii) a regulation made under *The Broker-Dealers Act, 1947*, *The Teaching Profession Act*, section 76 of *The Cemeteries Act* or by an authority under *The Conservation Authorities Act*, or a by-law of a hospital made under *The Public Hospitals Act*, or the constitution and by-laws of an association made under *The Agricultural Associations Act*, 1947, c. 8;  
R.S.O. 1960, cc. 393, 47,  
62, 322, 6
  - (iii) an order of the Ontario Municipal Board, other than an order prescribing the rules governing proceedings before the Board,
  - (iv) an order, direction or designation of the Lieutenant Governor in Council under section 5, 29, 41, 42, 43, 45 or 68 of *The Highway Improvement Act*, or a designation by the Minister of Highways under section 44 or 90 of that Act, or R.S.O. 1960, c. 171

- (v) a schedule of classifications for civil servants, including qualifications, duties and salaries, prescribed under *The Public Service Act*. R.S.O. 1950, c. 337, s. 1; 1960, c. 103, s. 1, *amended*.

R.S.O. 1960,  
c. 331

Filing  
required

**2.—(1)** Every regulation shall be filed in duplicate with the Registrar together with a certificate in duplicate of its making signed by the authority making it or a responsible officer thereof and, where approval is required, with a certificate of approval in duplicate signed by the authority so approving or by a responsible officer thereof, except that in the case of a regulation made by a minister that does not require approval, no certificate is required.

Copy from  
Executive  
Council

(2) Where a regulation is made or approved by the Lieutenant Governor in Council, the filing with the Registrar of two copies of it certified to be true copies by the Clerk of the Executive Council shall be deemed to be compliance with subsection 1. R.S.O. 1950, c. 337, s. 2 (1, 2).

Commence-  
ment

**3.** Unless otherwise stated in it, a regulation comes into force and has effect on and after the day upon which it is filed. R.S.O. 1950, c. 337, s. 2 (3), *amended*.

Failure  
to file

**4.** Except where otherwise provided, a regulation that is not filed has no effect. R.S.O. 1950, c. 337, s. 2 (4), *amended*.

Publication

**5.—(1)** Every regulation shall be published in *The Ontario Gazette* within one month of its filing.

Extension  
of time for  
publication

(2) The Minister may at any time by order extend the time for publication of a regulation and the order shall be published with the regulation.

Effect of  
non-publica-  
tion

(3) A regulation that is not published is not effective against a person who has not had actual notice of it. R.S.O. 1950, c. 337, s. 3 (1-3).

Effect of  
publication

(4) Publication of a regulation,

- (a) is *prima facie* proof of its text and of its making, its approval where required, and its filing; and
- (b) shall be deemed to be notice of its contents to every person subject to it or affected by it,

and judicial notice shall be taken of it, of its contents and of its publication. R.S.O. 1950, c. 337, s. 3 (4); 1953, c. 92, s. 1, *revised*.

Powers of  
Minister

**6.** The Minister may,

- (a) determine whether a regulation, rule, order or by-law

is a regulation within the meaning of this Act and his decision is final;

- (b) determine who shall be deemed responsible officers within the meaning of section 2; and
- (c) determine any matter that may arise in connection with the administration of this Act. R.S.O. 1950, c. 337, s. 4.

**7.**—(1) There shall be a Registrar of Regulations appointed <sup>Registrar</sup> by the Lieutenant Governor in Council who,

- (a) is responsible for the numbering and indexing of all regulations filed in his office and for their publication; and
- (b) shall exercise such powers and perform such duties as are vested in or imposed upon him by this Act, the regulations made hereunder, or the Minister.

(2) The Registrar may issue a certificate as to the filing of <sup>Certificate of Registrar</sup> a regulation and every such certificate is *prima facie* proof of the facts stated in it without any proof of appointment or signature.

(3) Where a map or plan,

- (a) forms part of a regulation for the purpose of illustrating a description of land; and
- (b) is identified in the regulation by a number given to it by the Registrar,

<sup>Filing of maps or plans</sup>

and the regulation states that the map or plan is filed in the office of the Registrar, he may in his discretion file the map or plan in his office in numerical order and no publication of the map or plan is necessary. R.S.O. 1950, c. 337, s. 5, *revised*.

**8.** Regulations shall be numbered in the order in which <sup>Numbering</sup> they are filed, and a new series shall be commenced each year. R.S.O. 1950, c. 337, s. 6 (1), *revised*.

**9.** A regulation may be cited or referred to as "Ontario <sup>Citation</sup> Regulation" or "O. Reg." followed by its filing number, a virgule and the last two figures of the year of its filing. R.S.O. 1950, c. 337, s. 6 (2), *revised*.

**10.**—(1) The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

- (a) prescribing the powers and duties of the Registrar;

- (b) prescribing the form, arrangement and scheme of regulations;
- (c) prescribing a system of indexing;
- (d) providing for the preparation and publication of a consolidation or codification of regulations that have been filed, and for the preparation and publication of supplements thereto;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 337, s. 7 (1), *amended*.

Consolida-  
tion,  
codification

(2) Publication of a regulation in a consolidation or codification or supplement thereto mentioned in clause *d* of subsection 1 shall be deemed publication within the meaning of this Act. R.S.O. 1950, c. 337, s. 7 (2), *amended*.

Defects not  
corrected

**11.** The filing or publication of a regulation under this Act does not have the effect of validating or correcting any such regulation that is otherwise invalid or defective in any respect or for any reason. R.S.O. 1950, c. 337, s. 8.

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## CHAPTER 350

**The Rehabilitation Services Act****1. In this Act,**Interpre-  
tation

- (a) "approved organization" means any organization designated as such by the Lieutenant Governor in Council under this Act;
- (b) "Director" means the Director of Rehabilitation Services of the Department of Public Welfare;
- (c) "handicapped person" means a person with a physical or mental impairment that substantially prevents him from engaging in remunerative employment;
- (d) "local authority" means a field worker or regional welfare administrator employed by the Department of Public Welfare, an employee of the Department of Public Welfare designated by the Minister, or a person appointed by the council of a municipality with the approval of the Minister as a municipal welfare administrator;
- (e) "Minister" means the Minister of Public Welfare;
- (f) "rehabilitation services" means any measures that may enable a handicapped person to engage in remunerative employment;
- (g) "regulations" means the regulations made under this Act. 1955, c. 71, s. 1; 1958, c. 95, s. 1 (1, 2).

**2.** The Lieutenant Governor in Council may designate any organization as an approved organization to provide rehabilitation services to handicapped persons under this Act. 1955, c. 71, s. 2.

Designation  
of approved  
organiza-  
tions

**3.** The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada or with any approved organization for the purpose of providing rehabilitation services to handicapped persons. 1955, c. 71, s. 3.

Implement-  
ing agree-  
ments  
authorized**4.—(1) Any handicapped person,**

- (a) who has resided in Ontario for one year immediately preceding the date of the application;

Application  
for rehabi-  
litation  
services

R.S.C. 1952,  
c. 207

- (b) who is not in receipt of a pension, allowance, or other benefit from the Government of Canada in respect of war services, other than a dependant who is receiving, or is included in, a pension, allowance or other benefit under the *Pension Act* (Canada); and

R.S.O. 1960,  
c. 437

- (c) who is not in receipt of compensation under *The Workmen's Compensation Act*, other than a person who,

(i) is a handicapped person for reasons not attributable to, or incurred as a result of, the accident or industrial disease for which he is receiving compensation, or

(ii) is a dependant of the person receiving compensation,

may apply for rehabilitation services to a local authority or to a representative of an approved organization.

Interpre-  
tation

- (2) In clause *b* of subsection 1, "dependant" means,

(a) a child; or

(b) a parent, or a person in place of a parent, or a brother or sister, who is in a dependent condition,

within the meaning of the *Pension Act* (Canada).

Idem

- (3) In clause *c* of subsection 1, "accident", "dependant" and "industrial disease" have the same meaning as in *The Workmen's Compensation Act*. 1955, c. 71, s. 4.

Duties of  
Director

#### 5. It is the duty of the Director,

(a) to receive applications for rehabilitation services;

(b) to determine the eligibility of each applicant for rehabilitation services,

and where the applicant is eligible,

(c) to review the recommendations of the local authority or the representative of the approved organization with respect to the provision of rehabilitation services;

(d) to take such measures as may be necessary to ensure that the rehabilitation services recommended are provided in accordance with this Act or any agreement made under this Act, if in his opinion the applicant may benefit from such services;

(e) to authorize the provision of the rehabilitation services; and

- (f) to determine the amounts to be paid to the applicant or on his behalf and to direct payment accordingly. 1955, c. 71, s. 5.

**6.** Where the Director is absent or there is a vacancy in the office, his powers and duties shall be exercised and performed by such civil servant as the Minister designates. 1955, c. 71, s. 6.

**7.—(1)** Where rehabilitation services are authorized, there may be paid to the handicapped person, or on his behalf, such amounts in such manner and at such times as are prescribed by the regulations. <sup>Payments</sup>

(2) The amounts to be paid to or on behalf of handicapped persons and the expenses of the administration of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. 1955, c. 71, s. 7, *amended*. <sup>Expenses of Act</sup>

**8.** The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) governing the manner of making application for rehabilitation services;
- (b) adding further qualifications to those specified in this Act for applicants for rehabilitation services;
- (c) establishing an advisory committee of three or more persons to advise the Minister respecting the development and provision of rehabilitation services;
- (d) establishing an advisory board of one or more persons to assist the Director;
- (e) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before rehabilitation services are authorized;
- (f) prescribing the kinds of rehabilitation services that may be authorized;
- (g) prescribing the powers and duties of local authorities, field workers and representatives of approved organizations;
- (h) providing for the suspension and cancellation of rehabilitation services;
- (i) providing for the making of investigations respecting handicapped persons who have been recommended for rehabilitation services or for whom rehabilitation services have been authorized;

- (j) prescribing the amounts to be paid to or on behalf of handicapped persons for whom rehabilitation services are authorized and the manner and times of payment;
  - (k) prescribing additional duties of the Director;
  - (l) prescribing the records that shall be kept under this Act;
  - (m) prescribing forms and providing for their use;
  - (n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1955, c. 71, s. 8.
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## CHAPTER 351

## The Religious Institutions Act

1.—(1) Where a religious society or congregation of Christians desires to take a conveyance of land for the site of a church, chapel, meeting-house, burial ground, residence for a minister, book store, printing or publishing office or for any other religious or congregational purpose, such society or congregation may appoint trustees to whom, and their successors, to be appointed in such manner as may be specified in the conveyance, the land requisite for all or any of such purposes may be conveyed, and such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land and maintain and defend actions for the protection thereof and of their property therein.

(2) The conveyance to the trustees may be made to them under a collective name, and it is not necessary to set out their individual names as parties thereto, provided such names are set out or appear therein by recital or otherwise, and this applies to conveyances heretofore made as well as to those hereafter to be made.

(3) If the name by which any such religious society or congregation or trustees therefor have heretofore held or hereafter hold land under and pursuant to the powers of this Act has been or shall be changed by such religious society or congregation by by-law or resolution, such change of name does not prejudice or affect the title of the society or congregation or their trustees to the land. R.S.O. 1950, c. 338, s. 1.

2. Where trustees appointed as provided in section 1 hold land for the purposes aforesaid or any of them and the religious society or congregation for which they hold the land desires to take a conveyance of additional land for any of such purposes, whether such additional land adjoins the land already held or not, and such religious society or congregation desires the same to be held by the same trustees, the society or congregation may by resolution direct that such land be conveyed to the trustees by their collective name and upon the conveyance being so made the land vests in the trustees for the purposes declared by the conveyance and is subject to the provisions of this Act in the same manner as the other land held by the trustees. R.S.O. 1950, c. 338, s. 2.

Power to  
vary  
number of  
trustees

**3.—(1)** Any congregation or society of Christians entitled to the benefit of any land held under the provisions of this Act, or otherwise, may by a resolution passed by a two-thirds vote of the persons entitled to vote in respect of the appointment of trustees increase or decrease the number of trustees by the conveyance or otherwise to be appointed for the purpose of holding such land, or may in like manner fix the number of trustees if the conveyance makes no provision as to their number.

Notice,  
meeting  
and  
resolution

(2) No such resolution shall be passed unless at a meeting of which notice has been given in the manner required for a meeting for the election of trustees for such land, stating that a proposal for increasing or decreasing or determining, as the case may be, the number of the trustees, will be considered at the meeting.

When  
resolution  
for increase  
in number  
to take  
effect

(3) If the resolution provides for the appointment of more trustees than are authorized by the conveyance, or more than there are in fact if the number is not limited by the conveyance, the same shall take effect forthwith, and the additional trustees to be appointed may be elected at the meeting at which the resolution is passed or at a subsequent meeting.

When  
resolution  
for reduction  
in  
number to  
take effect

(4) If the resolution provides for a smaller number of trustees than the conveyance provides for, the resolution shall not take effect until vacancies occur, by death or otherwise, reducing the number of trustees to the number provided for by the resolution, and no other trustee shall be appointed until the number has been reduced below the number authorized by the resolution. R.S.O. 1950, c. 338, s. 3.

Power to  
mortgage

**4.—(1)** Where a debt has heretofore been or is hereafter contracted for the building, repairing, extending or improving of a church, chapel, meeting-house, residence for a minister, book store, printing or publishing office or other building on land held by trustees for the benefit of any society or congregation in Ontario, or for the purchase of the land on which the same has been or is intended to be erected, the trustees, or a majority of them, may secure the debt or any part thereof by a mortgage upon the land, or may borrow money to pay the debt or part thereof and may secure the repayment of the loan and interest by a like mortgage upon such terms as may be agreed upon.

Where  
church  
building is  
not erected  
on land held  
by trustees

(2) The authority conferred by this section extends to any land so held, although the church or other building in respect of which the debt is contracted is not erected on such land. R.S.O. 1950, c. 338, s. 4.

5. In the case of separate but contiguous parcels of land held under separate conveyances by trustees for the same religious society or congregation under this Act, if such parcels of land are so used, occupied, or built upon as to become indivisible except by the removal, alteration, or destruction, in whole or in part, of such user, occupation or building, the trustees of such parcels may join in any mortgage authorized by section 4. R.S.O. 1950, c. 338, s. 5.

Power to join in mortgage of lands held under separate conveyances

6.—(1) The grantees in trust named in any letters patent from the Crown, or the survivors or survivor of them, or the trustees for the time being appointed in manner prescribed in the letters patent, whereby land is granted for the use of a religious society or congregation and any other trustees for the time being entitled by law to hold land in trust for the use of a religious society or congregation may lease for any term not exceeding twenty-one years land so held by them at such rent and upon such terms as the trustees or a majority of them deem reasonable.

Power to lease

(2) In such lease the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of years for a further term of twenty-one years or a less period at such rent and on such terms as may then by the trustees for the time being be agreed upon with the lessee, his heirs, executors, administrators or assigns, or may consent or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements that may at the expiration of any term be on the demised premises, and the mode of ascertaining the amount of such rent or the value of such improvements may also be specified in the original lease.

Power to agree in leases to renew

(3) The trustees shall not so lease without the consent of the society or congregation for whose use they hold the land in trust, and such consent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose; nor shall the trustees lease any land that at the time of making the lease is necessary for the purpose of erecting a church or place of worship or other building thereon or for a burial ground for the society or congregation.

Consent of society or congregation to lease

(4) The trustees may, in their own names or by any name by which they hold the land, sue or distrain for rent in arrear, and may take all such means for the recovery thereof as landlords are entitled to take. R.S.O. 1950, c. 338, s. 6.

Remedies of trustees for rent in arrear

7.—(1) Where land held by trustees for the use of a society or congregation becomes unnecessary to be retained for such

Power to sell

use and it is deemed advantageous to sell it, the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold and the time and terms of sale, and after publication of the notice once in each week for four successive weeks in a daily or a weekly newspaper published in or near the place where the land is situate they may sell the land at public auction according to the notice, but the trustees are not obliged to sell if in their judgment an adequate price is not offered.

Private sale

(2) The trustees may thereafter sell the land either by public or private sale, but a less sum shall not be accepted at private sale than was offered at the public auction without the consent of the society or congregation.

Special powers not affected

(3) This section does not affect or vary any special powers or trusts for sale contained in any deed or instrument inconsistent herewith. R.S.O. 1950, c. 338, s. 7.

Sale or exchange of property held by trustees

8.—(1) Where at a meeting of a society or congregation duly called in accordance with the statutes, by-laws, rules and regulations governing the same, it has been proposed to sell, exchange or otherwise deal with any land held by trustees for the use of such society or congregation, and the society or congregation has by resolution approved of the proposed method of dealing with such land, or some part thereof, and the price to be paid or property to be accepted in exchange therefor, and all other terms and conditions of such sale, exchange, or other disposition, it is not necessary for the trustees to give any other notice or to offer the land for sale by public auction, as provided in section 7, but the trustees may make a conveyance or other disposition of the land dealt with in accordance with the terms and conditions of such resolution.

Notice of meeting

(2) In the absence of any rule or regulation defining the notice that is to be given of any meeting of such society or congregation, such meeting shall be properly called upon three days notice given by announcement from the pulpit or by written notice posted up upon the door of the church and in the nearest schoolhouse or post office for three days before such meeting. R.S.O. 1950, c. 338, s. 8.

Conveyance to trustees of new congregation

9.—(1) Where land is held by trustees for the use of a religious society or congregation and a separate society or congregation is formed therefrom, the trustees for the time being may convey to the trustees of such separate society or congregation such part of the land as is no longer required for the use of the society or congregation for the use of which it is so held, but no such conveyance shall be made unless

the assent thereto of the last-mentioned society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12.

(2) Every conveyance heretofore executed to any such separate society or congregation and so assented to or sanctioned is as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was executed; but this subsection does not apply to a conveyance that is in question in an action pending on the 7th day of March, 1910, or that has heretofore been determined to be invalid or affect any adverse right or title acquired before that date. R.S.O. 1950, c. 338, s. 9.

**10.**—(1) Where land is held by trustees for the use of any religious society or congregation and such society or congregation desires to unite with another society or congregation of the same denomination, the trustees for the time being may convey any land held by them to the trustees of the last-mentioned society or congregation or of the united society or congregation, but no such conveyance shall be made unless it is assented to or sanctioned in the manner provided by section 12.

(2) Every such conveyance heretofore made is as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was made. R.S.O. 1950, c. 338, s. 10.

**11.** The trustees of any religious society or congregation may convey the land belonging to such society or congregation to any incorporated board of the denomination of which such society or congregation forms part, but no such conveyance shall be made unless the assent thereto of such society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12. R.S.O. 1950, c. 338, s. 11.

**12.**—(1) Before any conveyance is executed in pursuance of a public or private sale, the society or congregation for whose use the land is held shall be duly notified thereof, and its assent obtained to the execution of the deed, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

(2) Such assent shall be held in favour of the grantee, his heirs and assigns to be conclusively attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person

appointed at such meeting for the purpose, and the person assuming to execute the deed as chairman, official head or appointee shall be deemed to be such chairman, official head or appointee, as the case may be.

Approval by  
county  
judge

(3) Instead of such assent, it is sufficient for the validity of any such conveyance that the sale be sanctioned and the conveyance approved of by the judge of the county or district court of the county or district in which the land is situate. R.S.O. 1950, c. 338, s. 12.

Mode of  
appointing  
trustees'  
successors

**13.**—(1) Any society or congregation on whose behalf land is now, has been or hereafter may be held by a trustee or trustees, without the manner of appointing successors being set forth in the grant, conveyance, or devise of such land, or which is or may be entitled to any land, at any time hereafter may assemble in a public meeting duly convened by notice in writing, signed by at least five members of such society or congregation, and affixed to the door of its place of worship, at least eight days before the day appointed for holding such meeting, and at such meeting, by the votes of a majority of the members present, may determine in what manner the successors to such trustee or trustees shall be appointed, or may appoint a trustee or trustees of any land to which the society or congregation is entitled, and determine in what manner their successors in the trust shall be appointed.

Effect of  
registration  
of pro-  
ceedings

(2) Any land to which the society or congregation is entitled shall from time to time vest in and be held by the trustee or trustees to be appointed as hereinbefore mentioned, and their successors in the trust, immediately upon the registration of the proceedings without any or further conveyance or instrument. R.S.O. 1950, c. 338, s. 13.

Where two  
societies  
desire to  
build a  
house of  
worship

**14.** Where members or adherents in any locality of two or more religious societies desire to build a house for public worship, it is lawful for each of the societies respectively to appoint from time to time one trustee in the manner and form prescribed in this Act, and the trustees of the religious societies so united have the like powers as are conferred on trustees under this Act, and no others, and as to any act, deed or thing to be done or made by trustees under this Act that requires the sanction or assent of the society or congregation, the trustees under this section shall obtain the sanction or assent of each and every of the religious societies so united, to be ascertained and signified in the manner hereinbefore mentioned. R.S.O. 1950, c. 338, s. 14.

Record of  
proceedings

**15.**—(1) A record of the proceedings of every meeting held under this Act shall be entered in the minute book or

other official register of the acts and proceedings of the society or congregation, and shall be signed by the chairman and secretary thereof, and shall thereafter be deposited of record among the archives of the society or congregation, and a copy of such record verified by the affidavit of the chairman or secretary of the meeting may be recorded in the registry office of the registry division in which the land is situate.

(2) A copy of such proceedings taken from the minute book <sup>Copy as evidence</sup> or other official register of the society or congregation and certified by the clerk or custodian of the records of the society or congregation, or a copy certified by the registrar of the registry division wherein the same has been registered, is *prima facie* evidence of the contents thereof. R.S.O. 1950, c. 338, s. 15.

**16.** Trustees selling or leasing land under the authority of this Act shall on the first Monday in July in every year have <sup>Duty of trustees as to accounting</sup> ready and open for the inspection of the society or congregation that they represent, or of any member thereof, a detailed statement showing the rents that accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of the society or congregation that were in any manner derived from the land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the society or congregation. R.S.O. 1950, c. 338, s. 16.

**17.** This Act does not repeal, alter, affect or vary any of the provisions in any special Act with reference to any religious society or congregation, but, on the contrary, any of such provisions that differ from or are inconsistent with any of the provisions of this Act prevail, and where any additional rights or privileges are conferred by this Act, they shall be construed as supplementary to the provisions in any such special Act, and in every case the special trusts or powers of trustees in any deed, conveyance or other instrument are not affected or varied by any of the provisions of this Act. R.S.O. 1950, c. 338, s. 17. <sup>This Act not to affect special Acts as to religious bodies</sup>

**18.—(1)** Whenever any two or more parcels of land adjoining each other, or in the same neighbourhood, are held as sites for burial grounds, by different bodies of trustees, whether of the same or different denominations, societies or congregations, and such trustees think it desirable that such parcels should be vested in one body of trustees, such two or more bodies of trustees, or the majority of each of such bodies, may by deed appoint trustees to whom and their successors, to be appointed in such manner as may be specified in such deed, all <sup>Power to appoint joint trustees for two or more burial grounds that adjoin each other</sup>

or any of the land vested in such appointing bodies of trustees as sites for burial grounds may be conveyed, and such trustees so appointed and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land thereby or thereafter conveyed to them as a site or sites for a burial ground, and maintain and defend actions for the protection thereof and of their property therein, and the several appointing bodies of trustees may, in or by the same deed of appointment or by any other deed or deeds, convey and assure all or any of the parcels of land so vested in them respectively to such trustees so appointed and their successors upon, with and subject to such trusts, powers, limitations and provisions not inconsistent with the purposes of a burial ground as are by the parties thereto deemed proper.

Assent of  
congrega-  
tion or  
religious  
body  
required

(2) No such deed of appointment of trustees and no such conveyance or assurance shall be made or executed by any body, or the majority of any body, of trustees until the society or congregation for whose use the land is held is duly notified thereof, and its assent obtained to the execution of such deed of appointment, or of such conveyance or assurance, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence of  
assent

(3) Such assent shall be held in favour of such new trustees and their successors to be attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person assuming to execute the deed as chairman, official head, or appointee shall be presumed to be such chairman, official head, or appointee, as the case may be. R.S.O. 1950, c. 338, s. 18.

Rights ex-  
tended to  
The Anglican  
Church of  
Canada

**19.—(1)** All the rights, powers, and privileges, conferred upon any society or congregation by this Act extend and apply to The Anglican Church of Canada, formerly or otherwise called The Church of England in Canada, or the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada. R.S.O. 1950, c. 338, s. 19 (1); 1957, c. 108, s. 1.

Incumbent  
and church  
wardens to  
be trustees

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of this Act, be deemed to be trustees within the meaning thereof.

Bishop, etc.,  
to be trus-  
tees under  
3 V., c. 74,  
s. 16

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the*



*management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned, the bishop, or parson, rector or incumbent or any successor or other person in whom the legal title or estate is vested, by, from or under any of them, shall also be deemed to be a trustee by whom the like rights and powers of trustees may be exercised as in the case of such trustees.*

(4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee by whom the like powers of trustees under this Act may be exercised as in the case of such trustees. Property vested in the bishop in trust

(5) In cases of property vested in the synod of any diocese within the Act passed in the seventh year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee by whom the like rights and powers of trustees under this Act may be exercised as in the case of such trustees, and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose. Property vested in the synod in trust within 7 V., c. 68, and 32 V., c. 51

(6) Provided that land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by this Act except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese, and it is hereby declared that the consent of the vestry given in accordance with the rules and canons of such church shall be deemed to be the consent of the congregation, and the execution of the conveyance by the bishop and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, is, in favour of the grantee, his heirs and assigns, conclusive evidence of the consent of the bishop and executive committee. R.S.O. 1950, c. 338, s. 19 (2-6). How land may be sold or encumbered, consent requisite

**20.** All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 extend in every respect to the Roman Catholic Church, to be exercised according to the government of that church. R.S.O. 1950, c. 338, s. 20. Rights extended to Roman Catholic Church

Rights  
extended  
to Jews

**21.** All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 have been, since the 7th day of April, 1891, and are hereby extended to and apply to any society or congregation of Jews professing the Jewish religion. R.S.O. 1950, c. 338, s. 21.

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## CHAPTER 352

## The Replevin Act

1. In this Act, "sheriff" includes any officer to whom an execution or other process is directed. Interpretation R.S.O. 1950, c. 339, s. 1.

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained or have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery thereof and of the damages sustained by reason of such distraint, taking or detention. Where goods may be replevied R.S.O. 1950, c. 339, s. 2.

3. An action of replevin shall not be brought for the recovery of personal property seized under process by and in the custody of a sheriff, or for the recovery of liquor within the meaning of *The Liquor Control Act* seized under any Act of the Legislature. Goods seized under legal process R.S.O. 1950, c. 339, s. 3. R.S.O. 1960, c. 217

4. Where a sheriff has in his hands an order of replevin and the property to be replevied or any part thereof is reasonably supposed to be secured or concealed in a dwelling house of the defendant or of any other person holding the same for him and the sheriff publicly demands at the door of the dwelling house delivery of the property to be replevied and the same is not delivered to him within six hours after the demand, he may, and shall, if necessary, but during daylight only, break open the dwelling house for the purpose of replevying such property or any part thereof, and, if found therein, shall make replevin according to the order. Power of sheriff R.S.O. 1950, c. 339, s. 4.

5. Where the property to be replevied, or any part thereof is reasonably supposed to be secured or concealed in an enclosure other than a dwelling house of the defendant or of any other person holding the same for him and the sheriff publicly demands at the enclosure delivery of the property to be replevied and the same is not forthwith delivered to him, he may, and shall, if necessary, at once break open the enclosure for the purpose of replevying such property, or any part thereof, and, if found therein, shall make replevin according to the order. When concealed in other enclosure R.S.O. 1950, c. 339, s. 5.

When concealed on person, etc.

**6.** Where the property to be replevied or any part thereof is reasonably supposed to be concealed either about the person or on the premises of the defendant or of any other person holding the same for him and the sheriff demands from the defendant or such other person delivery thereof and delivery is neglected or refused, he may, and, if necessary shall, search and examine the person, and, subject to sections 4 and 5, the premises of the defendant or other person, for the purpose of replevying the property or any part thereof, and, if found, shall make replevin according to the order. R.S.O. 1950, c. 339, s. 6.

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## CHAPTER 353

## The Representation Act

1. Notwithstanding anything in any general or special Act, <sup>Boundaries</sup> the boundaries of any county, territorial district, city, town, village, township or improvement district shall for the purposes of this Act be deemed to be the boundaries of such county, territorial district, city, town, village, township or improvement district as defined by statute, by-law, proclamation or other lawful authority on the 6th day of April, 1954. 1954, c. 84, s. 1, *amended*.

2. The Legislative Assembly of Ontario shall consist of <sup>Number of members</sup> ninety-eight members. 1954, c. 84, s. 2.

3. Ontario shall, for the purpose of representation in the <sup>Division of Ontario into electoral districts</sup> Assembly, be divided into electoral districts as enumerated and defined in the Schedule and one member shall be returned to the Assembly for each electoral district. 1954, c. 84, s. 3.

4. The boundaries of any electoral district as set out in <sup>Changes in municipal boundaries</sup> the Schedule are not affected by any alteration in municipal boundaries made after the 6th day of April, 1954. 1954, c. 84, s. 4, *amended*.

5. The electors entitled to vote in any town or village not <sup>Towns and villages on boundary line</sup> expressly included in an electoral district described in the Schedule and lying within the boundaries of two or more electoral districts are entitled to vote in the electoral district in which they would have been so entitled if the town or village had not become incorporated. 1954, c. 84, s. 5.

6. Except as otherwise expressly set out in the Schedule, <sup>Augmentations or gores of townships</sup> every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situate. 1954, c. 84, s. 6.

7. A city that constitutes an electoral district, or that <sup>City having separate representation</sup> is divided into two or more electoral districts, according to the Schedule, shall not for the purposes of this Act be deemed to form part of the electoral district within the limits of which it lies. 1954, c. 84, s. 7.

Cities,  
towns, etc.,  
included in  
electoral  
district in  
which  
situate

**8.** Every city, town, village, township or improvement district heretofore or hereafter incorporated, lying within the territorial limits of any electoral district described in the Schedule and not specially included in any other electoral district in the Schedule, forms part of the electoral district in which it is situate. 1954, c. 84, s. 8.

Special Act  
overruled

**9.** Every city, town, village, township or improvement district that by the provisions of any special Act passed before the 6th day of April, 1954, forms or forms part of any electoral district shall, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule. 1954, c. 84, s. 9, *amended*.

## SCHEDULE

## ELECTORAL DISTRICTS

THE ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—to consist of those parts of the territorial districts of Sudbury, Algoma, and Manitoulin within the hereinafter described limits, that is to say: Commencing at the intersection of the west boundary of the Township of Travers with the shore of Georgian Bay; thence northerly along the west boundaries of the townships of Travers and Kilpatrick to the northwest angle of the last-named township; thence westerly along the south boundary of the Township of Sale to the southwest angle of that township; thence northerly along the west boundary of the Township of Sale to the southeast angle of the Township of Goschen; thence westerly along the south boundaries of the townships of Goschen, Stalin and Roosevelt to the southwest angle of the last-named township; thence northerly along the west boundary of the Township of Roosevelt to the northwest angle of that township; thence westerly along the south boundary of the Township of Foster to the southwest angle of that township; thence northerly along the west boundaries of the townships of Foster, Nairn, Hyman and Totten to the northwest angle of the last-named township; thence westerly along the south boundary of Township 107 to the southwest angle of that township; thence northerly along the west boundary of Township 107 to the northwest angle of that township; thence westerly along the south boundary of Township 114 to the southwest angle of that township; thence northerly along the west boundaries of townships 114, 115, Gilbert and Dennie to the northwest angle of the last-named township; thence westerly along the south boundary of the Township of LaFleche to the southwest angle of that township; thence northerly along the west boundary of the Township of LaFleche to the southeast angle of the Township of Alton; thence westerly along the south boundaries of the townships of Alton, Jasper, Durban, Ethel and Comox to the southwest angle of the last-named township; thence northerly along the west boundaries of the townships of Comox, Fulton and Iris to the northwest angle of the last-named township; thence westerly along the south boundaries of townships 8Z, 8A, 8B, 8C, 8D, 8E, 8F, 8G and 8H to the southwest angle of the last-named township; thence continuing westerly along the south boundaries of townships 22, Range 15, and 23, Range 15, to the southwest angle of the last-named township; thence southerly along the west boundaries of townships 23 in Ranges 14, 13, 12, 11 and 10 to the northwest angle of the Township of Whitman; thence southerly along the west boundaries of the townships of Whitman and Chesley to the north boundary of the Township of Kehoe; thence easterly along the north boundary of the Township of Kehoe to the northeast angle of that township; thence southerly along the east boundary of the Township of Kehoe to the southeast angle of that township; thence westerly along the south boundary of the Township of Kehoe and its projection to Echo River; thence southerly and westerly along Echo River, Echo Bay, to Lake George; thence west astronomically to the International Boundary; thence southeasterly and along the International Boundary to its intersection with a line drawn west astronomically from a point measured 40 miles south astronomically from the point of commencement; thence east astronomically to a point measured 40 miles south astronomically from the point of commencement; thence north astronomically a distance of 40 miles to the point of commencement.

THE ELECTORAL DISTRICT OF BRANT—to consist of that part of the Township of Brantford lying north of the Grand River, the townships of Burford, Blenheim, South Dumfries, Oakland, Onondaga, Tuscarora, Windham, and Townsend, the Town of Paris, and the Village of Waterford.

THE ELECTORAL DISTRICT OF BRANTFORD—to consist of the City of Brantford, and that part of the Township of Brantford lying south of the Grand River.

THE ELECTORAL DISTRICT OF BRUCE—to consist of the townships of Albemarle, Amabel, Arran, Bruce, Eastnor, Elderslie, Lindsay, St. Edmunds, Saugeen, Brant, Greenock, and Kincardine, the towns of Chesley, Southampton, Wiarton, Kincardine, Port Elgin, and Walkerton, and the villages of Hepworth, Paisley, Tara, Tiverton, and Lion's Head.

THE ELECTORAL DISTRICT OF CARLETON—to consist of the townships of Fitzroy, Goulbourn, North Gower, Huntley, March, Marlborough, Nepean, and Torbolton, and the Village of Richmond, and that portion of the City of Ottawa bounded on the west by the city limits; bounded on the north by a line drawn as follows: Commencing at the intersection of the centre line of the Canadian National Railway line with the westerly limit of the City of Ottawa; thence continuing easterly along the said centre line of the Canadian National Railway line to its intersection with the centre line of Carling Avenue; thence continuing easterly along the centre line of Carling Avenue to the centre line of Preston Street; bounded on the east by the westerly limit of Dow's Lake, the centre line of the Rideau Canal and the centre line of the Rideau River.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—to consist of those portions of the territorial districts of Cochrane, South Algoma, and Thunder Bay, and the Patricia Portion of the Territorial District of Kenora, within the hereinafter described limits: Commencing at the intersection of the Interprovincial Boundary between Ontario and Quebec with the south shore of Lake Abitibi; thence in a northerly and north-westerly direction following the shore line of the said lake to the southeast angle of the Township of Galna; thence westerly along the southern boundary of the townships of Galna, Moody and Wesley to the southwest angle of the last-mentioned township; thence north along the west boundary of the said Township of Wesley to the southeast angle of the Township of Mortimer; thence west along the south limits of the townships of Mortimer, Pyne, St. John, Hanna, Reaume, Beck, Nesbitt, Aubin, Kingsmill and Kirkland; thence northerly along the westerly boundary of the Township of Kirkland to the southeast angle of the Township of Ford; thence westerly along the southern boundary of the townships of Ford, Stringer, Slack and Fenton; thence northerly along the western boundary of the townships of Fenton and Staples to the southern boundary of the Township of Sulman; thence westerly along the southern boundary of the townships of Sulman, Cargill, Ecclestone, Fergus, Rykert, Caithness, Scholfield and Talbott; thence northerly along the western limits of the townships of Talbott, Templeton, Landry and Irish to the northwest corner of the last-mentioned township; thence westerly along the southern boundary of the townships of Studholme, Gill, McMillan, McCoig, Kohler and Clavet; thence northerly along the western limit of the Township of Clavet to the southeast corner of the Township of Bell; thence west along the southern limit of the townships of Bell, Low, Klotz, Fernow, O'Meara and Bain; thence northerly along the western boundary of the townships of Bain and Raynar and following the boundary



line between the Territorial District of Thunder Bay and the Territorial District of Cochrane and the production of the said boundary line north astronomically to the northern boundary of Ontario; thence easterly, southerly and southeasterly along said northern boundary to a point where the boundary line between Quebec and Ontario intersects the south shore of James Bay; thence southerly along the said Interprovincial Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—to consist of those portions of the District of Timiskaming and the District of Cochrane described as follows: Commencing at a point on the line between Ontario and Quebec where the said boundary line intersects the production of the southern boundary of the Township of McFadden; thence westerly along the southern boundary of the townships of McFadden and Hearst to the southwest angle of the Township of Hearst; thence northerly along the west boundary of the Township of Hearst to the northwest angle thereof; thence westerly along the southern boundary of the townships of Gauthier, Lebel, Teck, Grenfell, Bompas, Dunmore, Sheba, Robertson, McNeil, Cleaver, Geikie, Bartlett, Musgrove, Doyle, Childerhouse and Pharand; thence northerly following the west boundary of the townships of Pharand, Hillary, Keefer and Whitesides to the southeasterly corner of the Township of Enid; thence westerly along the southern boundary of the townships of Enid, Strachan, Nova and Ossin; thence northerly along the western boundary of the townships of Ossin, Wadsworth, Lisgar, and Seaton to the northwest angle of the Township of Seaton; thence easterly along the northern boundary of the townships of Seaton, Griffin, Hicks and Oke to the northeast corner of the said Township of Oke; thence southerly along the eastern boundary of the Township of Oke to its intersection with the southern boundary of the Township of Kirkland; thence easterly along the southern boundary of the townships of Kirkland, Kingsmill, Aubin, Nesbitt, Beck, Reaume, Hanna, St. John, Pyne and Mortimer; thence southerly following the western boundary of the Township of Wesley to the southwest angle of the said township; thence easterly along the southern boundary of the townships of Wesley, Moody and Galna to the shore of Lake Abitibi; thence following the shore line of the said lake in a southerly and southeasterly direction to a point where the boundary between Ontario and Quebec intersects the south shore of the said lake; thence southerly along the said Interprovincial Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF DUFFERIN-SIMCOE—to consist of the townships of Adjala, Essa, Mono, Mulmur, Nottawasaga, Tecumseth, and Tossorontio, the towns of Alliston, Collingwood, Stayner, and Orangeville, and the villages of Beeton, Creemore, and Tottenham.

THE ELECTORAL DISTRICT OF DURHAM—to consist of the County of Durham.

THE ELECTORAL DISTRICT OF ELGIN—to consist of the townships of Southwold, Bayham, Malahide, South Dorchester, and Yarmouth, the City of St. Thomas, the Town of Aylmer, and the villages of Port Burwell, Port Stanley, Springfield, and Vienna.

THE ELECTORAL DISTRICT OF ESSEX NORTH—to consist of the townships of Maidstone, Rochester, Sandwich East, Sandwich South, Tilbury North, and Tilbury West, that part of the City of Windsor formerly comprising the City of East Windsor, the towns of Riverside and Tecumseh, and the villages of Belle River and St. Clair Beach.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—to consist of the townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee (including the island forming part thereof), the towns of Amherstburg, Essex, Harrow, Kingsville and Leamington.

THE ELECTORAL DISTRICT OF FORT WILLIAM—to consist of all that portion of the Territorial District of Thunder Bay within the hereinafter described limits, that is to say: Commencing at a point on the International Boundary between Ontario and the United States of America where it is intersected by the boundary lines between the territorial districts of Thunder Bay and Rainy River; thence northerly along the said district boundary and continuing along the district boundary between the Territorial District of Kenora and the Territorial District of Thunder Bay; thence continuing north through the Patricia Portion of the District of Kenora, to the northern boundary of Ontario; thence in a north-easterly direction along the said northern boundary of Ontario to a point where it is intersected by a line drawn due north astronomically from the northwest angle of the Nipigon Forest Reserve to the middle thread of the Albany River; thence westerly following the middle thread of the Albany River to a point due north astronomically from the southeast angle of the Grand Trunk Pacific, Block I; thence south astronomically to the said southeast angle; thence east along the northern boundary of the Township of Forbes and the production thereof to the centre of Dog River; thence southerly down stream along the middle thread of Dog River to the northern limit of the Township of Oliver; thence east astronomically along the north boundary of the Township of Oliver to the northeast angle thereof; thence south astronomically along the east limit of the said Township of Oliver to the north limit of the Township of Paipoonge; thence east astronomically along the north limit of the Township of Paipoonge and along the north limit of the Township of Neebing to the west shore of Thunder Bay of Lake Superior; thence continuing due east astronomically 8 miles, more or less, to a point due north astronomically from the most easterly point on Pie Island in said Bay; thence due south astronomically 20 miles, more or less, to said International Boundary; thence southwesterly along said International Boundary to the mouth of the Pigeon River; thence continuing westerly along said International Boundary up Pigeon River to the west boundary of the Territorial District of Thunder Bay or place of beginning.

THE ELECTORAL DISTRICT OF FRONTENAC-ADDINGTON—to consist of the townships of Abinger, Anglesea, Ashby, Camden, Denbigh, Effingham, Kaladar, Sheffield, and the Village of Newburgh in the County of Lennox and Addington, and the townships of Barrie, Bedford, North Canonto, South Canonto, Clarendon, Hinchinbrook, Kennebec, Loughborough, Pittsburg, Miller, Olden, Oso, Palmerston, Portland, Kingston and Storrington in the County of Frontenac.

THE ELECTORAL DISTRICT OF GLENGARRY—to consist of the County of Glengarry, the Township of Caledonia and that part of East Hawkesbury Township and West Hawkesbury Township lying south of the original road allowance between Concessions four and five, and the Town of Vankleck Hill.

THE ELECTORAL DISTRICT OF GRENVILLE-DUNDAS—to consist of the County of Grenville and the County of Dundas.

THE ELECTORAL DISTRICT OF GREY NORTH—to consist of the townships of Collingwood, Derby, Keppel, Sarawak, St. Vincent, Sullivan and Sydenham, the City of Owen Sound, the towns of Meaford and Thornbury, and the Village of Shallow Lake.

THE ELECTORAL DISTRICT OF GREY SOUTH—to consist of the townships of Artemesia, Bentinck, Egremont, Holland, Euphrasia, Glenelg, Normanby, Osprey, and Proton, the towns of Durham and Hanover, and the villages of Chatsworth, Dundalk, Markdale, Neustadt, and Flesherton.

THE ELECTORAL DISTRICT OF HALDIMAND-NORFOLK—to consist of the County of Haldimand, the townships of Charlotteville, Houghton, Middleton, Walsingham North, Walsingham South (including Long Point), and Woodhouse, the towns of Port Dover and Simcoe, and the villages of Delhi and Port Rowan.

THE ELECTORAL DISTRICT OF HALTON—to consist of the County of Halton.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—to consist of that part of the City of Hamilton lying between the centre line of Dundurn Street on the west and the centre line of Wentworth Street on the east and continuing northerly to the north limits of the City and southerly to the brow of the Mountain.

THE ELECTORAL DISTRICT OF HAMILTON EAST—to consist of that part of the City of Hamilton lying between the centre line of Wentworth Street on the west and the centre line of Kenilworth Avenue on the east and continuing northerly to the north limits of the City and southerly to the brow of the Mountain.

THE ELECTORAL DISTRICT OF HAMILTON-WENTWORTH—to consist of that portion of the City of Hamilton lying west of the centre line of Dundurn Street, the townships of East Flamboro, West Flamboro, and Beverley, the Town of Dundas and the Village of Waterdown.

THE ELECTORAL DISTRICT OF HASTINGS EAST—to consist of the townships of Hungerford, Huntingdon, Thurlow, Tyendinaga, Madoc, Wicklow, Bangor, Tudor, Limerick, Dungannon, Montegale, Carlow, Mayo, Cashel, Grimsthorpe, and Elzevir, the Town of Deseronto, and the villages of Madoc and Tweed.

THE ELECTORAL DISTRICT OF HASTINGS WEST—to consist of the townships of Sidney, Rawdon, Marmora, Lake, Wollaston, Faraday, Herschel, and McClure, the City of Belleville, the Town of Trenton, and the villages of Delora, Marmora, Frankford, Bancroft, and Stirling.

THE ELECTORAL DISTRICT OF HURON—to consist of the townships of Goderich, Hay, Hullett, McKillop, Stanley, Stephen, Tuckersmith, and Usborne, the towns of Clinton, Exeter, Goderich, and Seaforth, and the Village of Hensall.

THE ELECTORAL DISTRICT OF HURON-BRUCE—to consist of the townships of Ashfield, Carrick, Colborne, Culross, Grey, Howick, Huron, Kinloss, Morris, Turnberry, East Wawanosh, and West Wawanosh, the Town of Wingham, and the villages of Blyth, Brussels, Lucknow, Mildmay, Ripley, and Teeswater.

THE ELECTORAL DISTRICT OF KENORA—to consist of the Territorial District of Kenora, including that part of the Patricia Portion lying west of the production in a northerly direction through the Patricia Portion of the boundary line between the Territorial District of Thunder Bay and the Territorial District of Kenora to the northern boundary of Ontario.

THE ELECTORAL DISTRICT OF KENT EAST—to consist of the townships of Camden (not including Gore), Harwich, Howard, Orford, Zone, Aldborough, and Dunwich, the towns of Blenheim, Bothwell, and Ridgetown, and the villages of Erieau, Highgate, Thamesville, Dutton, Rodney, and West Lorne.

THE ELECTORAL DISTRICT OF KENT WEST—to consist of the townships of Chatham, Dover, Raleigh, Romney, and Tilbury East, the City of Chatham, the towns of Tilbury and Wallaceburg, and the villages of Erie Beach and Wheatley.

THE ELECTORAL DISTRICT OF KINGSTON—to consist of the City of Kingston, Amherst Island, Howe Island, and Wolfe Island (including Simcoe Island, Horseshoe Island and Mud Island).

THE ELECTORAL DISTRICT OF LAMBTON EAST—to consist of the townships of Bosanquet, Brooke, Dawn, Enniskillen, Euphemia, Plympton, and Warwick, the Gore of Camden, the towns of Dresden, Forest, and Petrolea, and the villages of Alvinston, Arkona, Grand Bend, Oil Springs, Thedford, Watford, and Wyoming.

THE ELECTORAL DISTRICT OF LAMBTON WEST—to consist of the townships of Moore, Sarnia, and Sombra (including Walpole Island, St. Anne's Island and the other islands at the mouth of the River St. Clair), the City of Sarnia and the villages of Courtwright and Point Edward.

THE ELECTORAL DISTRICT OF LANARK—to consist of the townships of Beckwith, Bathurst, North Burgess, Dalhousie, Darling, Drummond, North Elmsley, Lanark, Lavant, Montague, Pakenham, Ramsay, North Sherbrooke, and South Sherbrooke, the towns of Almonte, Carleton Place, Perth, and Smith's Falls, and the Village of Lanark.

THE ELECTORAL DISTRICT OF LEEDS—to consist of the County of Leeds and the towns of Brockville and Gananoque.

THE ELECTORAL DISTRICT OF LINCOLN—to consist of the County of Lincoln and the City of St. Catharines.

THE ELECTORAL DISTRICT OF LONDON NORTH—to consist of those portions of the City of London and the Township of London within the hereinafter described limits, that is to say: Commencing at the point of intersection of the centre line of Crumlin sideroad and the centre line of Dundas Street; thence northerly along the centre line of the Crumlin sideroad to the centre line of the road in front of the Third Concession of the Township of London; thence westerly along the production easterly of the centre line of the road in front of the Third Concession and the centre line of the road in front of the Third Concession and the production westerly of the centre line of the road in front of the Third Concession to the centre line of the Western Road; thence southerly along the centre line of the Western Road to the centre line of Platt's Lane; thence southerly along the centre line of Platt's Lane to the centre of Oxford Street; thence westerly along the centre line of Oxford Street to the easterly boundary of Mount Pleasant Cemetery; thence southerly along the easterly boundary of Mount Pleasant Cemetery to the city limit; thence southerly along the city limit to the centre line of the main stream of the River Thames; thence easterly along the centre line of the main stream of the River Thames and the north branch of the River Thames to a point where it is intersected by the centre line of Dundas Street projected westerly; thence easterly along the centre line of Dundas Street to the place of beginning.

THE ELECTORAL DISTRICT OF LONDON SOUTH—to consist of those portions of the City of London and the Township of London within the hereinafter described limits, that is to say: Commencing at the easterly limit of the City of London where it crosses the centre line of the south branch of the River Thames; thence southeasterly along the centre line of the

south branch of the River Thames to the centre line of the Crumlin sideroad and the southerly production thereof; thence northerly along the southerly production of the centre line of the Crumlin sideroad and the centre line of the Crumlin sideroad to the point at which it is intersected by the centre line of Dundas Street; thence westerly along the centre line of Dundas Street to the centre line of the north branch of the River Thames; thence southerly and westerly along the centre line of the north branch of the River Thames and the main stream of the River Thames to a point where the said centre line of the main stream of the River Thames intersects the westerly limit of the City of London; thence along the westerly and southerly limits of the City of London to the place of beginning.

THE ELECTORAL DISTRICT OF MIDDLESEX NORTH—to consist of that portion of the Township of London not included in the Electoral Districts of London North and London South hereinbefore described, the townships of Biddulph, McGillivray, West Nissouri, East Williams, and West Williams; the Town of Parkhill, and the villages of Ailsa Craig and Lucan.

THE ELECTORAL DISTRICT OF MIDDLESEX SOUTH—to consist of the townships of Adelaide, Caradoc, Delaware, North Dorchester, Ekfrid, Lobo, Medcalfe, Mosa, and Westminster, the Town of Strathroy, and the villages of Glencoe, Newbury, and Wardsville.

THE ELECTORAL DISTRICT OF MUSKOKA—to consist of the Territorial District of Muskoka except the Township of Baxter.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—to consist of the townships of Bertie, Stamford, and Willoughby, the City of Niagara Falls, the Town of Fort Erie and the villages of Chippawa and Crystal Beach.

THE ELECTORAL DISTRICT OF NICKEL BELT—to consist of those parts of the territorial districts of Sudbury and Algoma within the hereinafter described limits, that is to say: Commencing at the northeast angle of the Township of Zavitz in the Territorial District of Sudbury; thence southerly along the east boundaries of the townships of Zavitz, Hutt, Halliday, Mond, Natal, Macmurchy, Fawcett, Ogilvie, Browning, Unwin, Leask, McNamara, and Beaumont to the southeast angle of the last-named township; thence easterly along the north boundary of the Township of Creelman to the northeast angle of that township; thence southerly along the east boundary of the Township of Creelman to the southeast angle thereof; thence easterly along the north boundary of the townships of Parkin, Aylmer, Mackelcan, and McCarthy to the northeast angle of the last-named township; thence southerly along the east boundaries of the townships of McCarthy, Kelly, Davis, Loughrin, Hagar, and Appleby to the southeast angle of the last-named township; thence westerly along the south boundary of the Township of Appleby to the northeast angle of the Township of Jennings; thence southerly along the east boundaries of the townships of Jennings, Cherriman, Cosby, and Mason to the centre line of the channel of the French River being the southerly boundary of the Territorial District of Sudbury; thence southwesterly along the centre line of the channel of the French River that lies adjacent to the south boundaries of the townships of Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along the said production to the water's edge of the channel of the French River; thence southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay to the west boundary

of the Township of Travers; thence northerly along the west boundaries of the townships of Travers and Kilpatrick to the northwest angle of the last-named township; thence westerly along the south boundary of the Township of Sale to the southwest angle of that township; thence northerly along the west boundary of the Township of Sale to the southeast angle of the Township of Goschen; thence westerly along the south boundaries of the townships of Goschen, Stalin, and Roosevelt to the southwest angle of the last-named township; thence northerly along the west boundary of the Township of Roosevelt to the northwest angle of that township; thence westerly along the south boundary of the Township of Poster to the southwest angle of that township; thence northerly along the west boundaries of the townships of Poster, Nairn, Hyman, and Totten to the northwest angle of the last-named township; thence westerly along the south boundary of Township 107 to the southwest angle of that township; thence northerly along the west boundary of Township 107 to the northwest angle of that township; thence westerly along the south boundary of Township 114 to the southwest angle of that township; thence northerly along the west boundaries of townships 114, 115, Gilbert, and Dennie to the northwest angle of the last-named township; thence westerly along the south boundary of the Township of LaFleche to the southwest angle of that township; thence northerly along the west boundary of the Township of LaFleche to the southeast angle of the Township of Alton; thence westerly along the south boundaries of the townships of Alton, Jasper, Durban, Ethel, and Comox to the southwest angle of the last-named township; thence northerly along the west boundaries of the townships of Comox, Fulton, and Iris to the northwest angle of the last-named township; thence westerly along the south boundaries of townships 8Z, 8A, 8B, 8C, 8D, 8E, 8F, 8G, and 8H to the southwest angle of the last-named township; thence continuing westerly along the south boundaries of townships 22, Range 15, and 23, Range 15 to the southwest angle of the last-named township; thence northerly along the west boundaries of townships 23, Range 15; 23, Range 16; 23, Range 17; 23, Range 18; 23, Range 19; 23, Range 20, Topham, and Cosens to the northwest angle of the last-named township; thence westerly along the south boundary of Township 23, Range 23 to the southwest angle of that township; thence northerly along the west boundaries of townships 23, Range 23, Hornell, Bader, 44, Stover, Rennie, Winget, Makawa, Mildred, Marjorie, Walls, and Roche to the northwest angle of the last-named township; thence easterly along the north boundaries of the townships of Roche, Pelletier, Doherty, Abbott, Opazatika, Bourinot, and Shanly to the northeast angle of the last-named township; thence southerly along the east boundaries of the townships of Shanly, Concobar, Allenby, Buchan, Davin, and Lougheed to the southeast angle of the last-named township; thence easterly along the north boundaries of the townships of Shenango, Oates, Oswald, Melrose, and Frey to the northeast angle of the last-named township; thence southerly along the east boundaries of the townships of Frey, Sewell, and Kenogaming to the northwest angle of the Township of Crothers; thence easterly along the north boundaries of the townships of Crothers, McBride, Hassard, Beemer, English, and Zavitz to the northeast angle of that township, the point of commencement; excepting therefrom the Township of McKim, the City of Sudbury and the towns of Copper Cliff and Frood Mine.

THE ELECTORAL DISTRICT OF NIPISSING—to consist of those parts of the territorial districts of Sudbury and Nipissing within the hereinafter described limits, that is to say: Commencing at

the northwest angle of the Township of McNish in the Territorial District of Sudbury; thence easterly along the north boundaries of the townships of McNish, Pardo, Hobbs, McCallum, Sisk, Kenny, Gooderham, La Salle, McAuslan, and Wyse and the easterly production of the north boundary of the last-named township to the Interprovincial Boundary between Ontario and Quebec; thence southeasterly along the said Interprovincial Boundary to its intersection with the northerly production of the east boundary of the Township of Papineau; thence southeasterly along the east boundaries of the townships of Papineau, Boyd, Lister, Freswick, Bower, and Sproule to the southeast angle of the last-named township; thence southwesterly along the south boundaries of the townships of Sproule, Canisbay, Peck, and Finlayson to the southwest angle of the last-named township; thence northwesterly along the west boundary of the Township of Finlayson to the northwest angle of that township; thence northeasterly along the north boundary of the Township of Finlayson to the southwest angle of the Township of McCraney; thence northwesterly along the west boundaries of the townships of McCraney, Butt, Paxton, and Ballantyne to the northwest angle of the last-named township; thence northeasterly along the north boundary of the Township of Ballantyne to the southwest angle of the Township of Chisholm; thence northwesterly along the west boundaries of the townships of Chisholm and East Ferris to the south boundary of the Township of West Ferris being the boundary between the territorial districts of Nipissing and Parry Sound; thence westerly along the boundary between the territorial districts of Parry Sound and Nipissing and continuing westerly along the boundary between the territorial districts of Parry Sound and Sudbury to its intersection with the southerly production of the west boundary of the Township of Scollard in the Territorial District of Sudbury; thence northerly along the west boundaries of the townships of Scollard, Martland, Haddo, and Casimir to the northwest angle of the last-named township; thence easterly along the north boundary of the Township of Casimir to the southwest angle of the Township of Dunnet; thence northerly along the west boundaries of the townships of Dunnet, Ratter, Henry, Janes, and McNish to the northwest angle of the last-named township, the point of commencement.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—to consist of the County of Northumberland.

THE ELECTORAL DISTRICT OF ONTARIO—to consist of all of the County of Ontario not included in the Electoral District of Oshawa.

THE ELECTORAL DISTRICT OF OSHAWA—to consist of the City of Oshawa, the Improvement District of Ajax, and the parts of the Town of Whitby and the townships of Pickering and Whitby lying south of the line described as follows: Commencing at a point in the west boundary of the Township of Pickering where it intersects the centre line of the road between the fourth and fifth concessions of the Township of Pickering; thence easterly along the centre line of the said road to the westerly boundary of the Township of Whitby; thence southerly along the westerly boundary of the Township of Whitby to the centre line of King's Highway No. 401; thence easterly along the centre line of King's Highway No. 401 to the west boundary of the City of Oshawa.

THE ELECTORAL DISTRICT OF OTTAWA EAST—to consist of all that part of Ward 1 in the City of Ottawa formerly known as Rideau Ward, all of Wards 2 and 3, and those parts of Wards 4, 6 and 7 described as follows: Commencing at a point in the

centre line of the Ottawa River where it is intersected by the east boundary of Ward 4; thence southerly along the east boundary of Ward 4 to the centre line of Sparks Street; thence westerly along the centre line of Sparks Street to its intersection with the centre line of Wellington Street; thence southwesterly along the centre line of Wellington Street to its intersection with the centre line of Parkdale Avenue; thence northerly along the centre line of Parkdale Avenue to its intersection with the centre line of the Ottawa River; thence easterly following the centre line of the Ottawa River to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH—to consist of Ward 5 in the City of Ottawa and the parts of Wards 4 and 6 lying south of a line described as follows: Commencing at a point in the east boundary of Ward 4 where it is intersected by the centre line of Sparks Street; thence westerly along the centre line of Sparks Street to its intersection with the centre line of Wellington Street; thence southwesterly along the centre line of Wellington Street to its intersection with the west boundary of Ward 6.

THE ELECTORAL DISTRICT OF OTTAWA WEST—to consist of the parts of Wards 7, 8 and 9 in the City of Ottawa bounded as follows: Commencing at the intersection of the westerly limit of the City of Ottawa with the centre line of the Canadian National Railway line; thence northerly along the said westerly city limit to the centre line of the Ottawa River; thence easterly along the centre line of the Ottawa River to its intersection with the production northerly of the centre line of Parkdale Avenue; thence southerly along the production northerly of the centre line of Parkdale Avenue and along the centre line of Parkdale Avenue to its intersection with the centre line of Wellington Street; thence easterly along the centre line of Wellington Street to its intersection with the centre line of Preston Street; thence southerly along the centre line of Preston Street to its intersection with the centre line of Carling Avenue; thence westerly along the centre line of Carling Avenue to its intersection with the centre line of the Canadian National Railway line; thence continuing westerly along the centre line of the Canadian National Railway line to its intersection with the westerly limit of the City of Ottawa, the place of beginning.

THE ELECTORAL DISTRICT OF OXFORD—to consist of the townships of Blandford, East Nissouri, East Zorra, West Zorra, Dereham, North Norwich, South Norwich, East Oxford, West Oxford, and North Oxford, the City of Woodstock, the towns of Ingersoll and Tillsonburg and the villages of Embro, Tavistock, and Norwich.

THE ELECTORAL DISTRICT OF PARRY SOUND—to consist of the Territorial District of Parry Sound.

THE ELECTORAL DISTRICT OF PEEL—to consist of the County of Peel.

THE ELECTORAL DISTRICT OF PERTH—to consist of the County of Perth, the City of Stratford, and the towns of Palmerston and St. Marys.

THE ELECTORAL DISTRICT OF PETERBOROUGH—to consist of the County of Peterborough and the City of Peterborough.

THE ELECTORAL DISTRICT OF PORT ARTHUR—to consist of all that portion of the Territorial District of Thunder Bay within the hereinafter described limits, that is to say: Commencing at a point in Lake Superior on the International Boundary between Ontario and the United States of America where the said International Boundary is intersected by the boundary between the territorial districts of Thunder Bay and Algoma,



in longitude  $85^{\circ} 20'$  west; thence due north astronomically along said meridian line to the southeast angle of the Township of Bell, a distance of 176 miles, more or less; thence west astronomically along the south limit of the townships of Bell, Low, Klotz, Fernow, O'Meara, and Bain, 54 miles, more or less, to the southwest angle of the last-named township; thence north astronomically along the western limit of the townships of Bain and Raynar and the boundary between the territorial districts of Thunder Bay and Cochrane and the said boundary produced to the northern limit of the Patricia Portion of the Territorial District of Kenora; thence westerly and southwesterly following the said northern limit to a point due north astronomically from the northwest angle of the Nipigon Forest Reserve; thence due south to the centre line of the Albany River; thence following the middle thread of the Albany River to a point due north astronomically of the southeast angle of the Grand Trunk Pacific, Block I; thence south astronomically to the said southeast angle; thence east along the north boundary of the Township of Forbes and the production thereof to the centre of Dog River; thence southerly down stream along the middle thread of Dog River to the northern limit of the Township of Oliver; thence east astronomically along the northern limit of the Township of Oliver to the northeast angle thereof; thence south astronomically along the east limit of the Township of Oliver to the north limit of the Township of Paipoonge; thence east astronomically along the northern limit of the Township of Paipoonge and along the northern limit of the Township of Neebing to the west shore of Thunder Bay of Lake Superior; thence continuing due east astronomically 8 miles, more or less, to a point due north astronomically from the most easterly point of Pie Island in said Bay; thence due south astronomically 20 miles, more or less, to the said International Boundary; thence northeast and southeast along the said International Boundary to the place of beginning.

**THE ELECTORAL DISTRICT OF PRESCOTT**—to consist of the townships of Alfred, Clarence, Cambridge, Longueuil, North Plantagenet, South Plantagenet, that part of the townships of East Hawkesbury and West Hawkesbury lying north of the original road allowance between Concessions four and five, the towns of Hawkesbury and Rockland, and the villages of Alfred, L'Original and Casselman.

**THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX**—to consist of the County of Prince Edward, the townships of Adolphustown, North Fredericksburg, South Fredericksburg, Richmond and Ernestown, the Town of Napanee, and the Village of Bath.

**THE ELECTORAL DISTRICT OF RAINY RIVER**—to consist of the Territorial District of Rainy River.

**THE ELECTORAL DISTRICT OF RENFREW NORTH**—to consist of the townships of Airy, Anglin, North Algona, Alice, Bromley, Buchanan, Bronson, Barron, Clara, Cameron, Clancy, Dickens, Deacon, Dickson, Edgar, Fraser, Fitzgerald, Guthrie, Head, Lyell, Maria, McKay, Murchison, Master, Niven, Pembroke, Petawawa, Preston, Rolph, Ross, Stafford, Sabine, Stratton, Westmeath, Wilberforce, Wylie, and White, the Town of Pembroke, the villages of Cobden and Chalk River and that part of the Village of Eganville lying north of the Bonnechere River.

**THE ELECTORAL DISTRICT OF RENFREW SOUTH**—to consist of the townships of Admaston, South Algona, Bagot, Blithfield, Brougham, Brudenell, Burns, Grattan, Griffith, Hagarty, Horton, Jones, Lyndoch, Matawatchesan, McNab, Raglan, Radcliffe,

Richards, Sebastopol, and Sherwood, the towns of Arnprior and Renfrew, and the villages of Barry's Bay, Braeside, and Killaloe Station and that part of the Village of Eganville lying south of the Bonnechere River.

THE ELECTORAL DISTRICT OF RUSSELL—to consist of the townships of Cumberland, Gloucester, Osgoode, and Russell, the Town of Eastview, and the Village of Rockcliffe Park, and that portion of Ward 1 in the City of Ottawa not included in the Electoral District of Ottawa East.

THE ELECTORAL DISTRICT OF STORMONT—to consist of the County of Stormont and the City of Cornwall.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—to consist of that part of the Territorial District of Algoma described as follows: Commencing at the mouth of Echo River on the Garden River Indian Reserve; thence due west astronomically to the International Boundary between Ontario and the United States of America; thence northerly, westerly and north-westerly along the said International Boundary to where it is intersected by the boundary between the territorial districts of Thunder Bay and Algoma in longitude  $85^{\circ} 20'$  west; thence due north astronomically following the said boundary to the southwest corner of the Township of Clavet; thence east astronomically along the south boundary of the townships of Clavet, Kohler, McCoig, McMillan, Gill, and Studholme 56 miles, more or less, to the southeast angle of the Township of Studholme; thence southerly in a straight line to the northwest angle of the Township of Templeton, a distance of 18 miles, more or less; thence continuing south along the west boundary of the townships of Templeton and Talbott, a distance of 18 miles, more or less, to the southwest angle of the latter; thence east astronomically along the south boundary of the Township of Talbott 2 miles 77 chains, more or less, to the northeast angle of the Township of Franz; thence south astronomically along the east boundary of the townships of Franz, Hawkins, Irving, Martin, and Moorehouse, and continuing southerly to a point on Niven's base line in latitude  $48^{\circ} 27' 54''$  north, which point constitutes the northwest angle of the Territorial District of Sudbury, a distance of 51 miles, more or less; thence south along T. B. Speight's meridian line, which constitutes the boundary between the territorial districts of Sudbury and Algoma, to the northwest angle of the Mississauga Forest Reserve, a distance of 84 miles, more or less; thence continuing south astronomically along the west limit of townships No. 23, Ranges 14, 13, 12, 11 and 10, and the townships of Whitman and Chesley, to the north limit of the Township of Kehoe; thence easterly along said north limit to the northeast angle thereof; thence south along the east limit of said township to the southeast angle thereof; thence west along said south boundary and its production to the Echo River; thence down Echo River to the place of beginning.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—to consist of the townships of Floss, Innisfil, Sunnidale, Tiny, Vespra, and West Gwillimbury, the towns of Barrie and Penetanguishene, and the villages of Bradford, Elmvale, and Wasaga Beach.

THE ELECTORAL DISTRICT OF SIMCOE EAST—to consist of the townships of Baxter, Matchedash, Medonte, Orillia, Oro, and Tay, the towns of Midland and Orillia, and the villages of Coldwater, Port McNicoll and Victoria Harbour.

THE ELECTORAL DISTRICT OF SUDBURY—to consist of the Township of McKim, the City of Sudbury, and the towns of Copper Cliff, and Frood Mine.

THE ELECTORAL DISTRICT OF TIMISKAMING—to consist of all that portion of the territorial districts of Nipissing, Sudbury, and Timiskaming within the hereinafter described limits: Commencing at a point in the Interprovincial Boundary between Ontario and Quebec in the Ottawa River where the same is intersected by the easterly production of the north boundary of the Township of Wyse; thence due west astronomically  $59\frac{3}{4}$  miles, more or less, to the northwest angle of the Township of McNish; thence north astronomically along the east limit of the Township of McCarthy 6 miles, more or less, to the northeast angle thereof; thence west astronomically along the north boundary of the townships of McCarthy, Mackelcan, Aylmer, and Parkin 25 miles, more or less, to the northwest angle thereof; thence north along the east boundary of the Township of Creelman to the northeast angle thereof; thence west astronomically along the north limit thereof 6 miles, more or less, to the southwest angle of the Township of Beresford; thence north along the west limits of the townships of Beresford, Cotton, Valin, Stull, Dufferin, North Williams, Leonard, Tyrell, Knight, Raymond, Midlothian, Montrose and Hincks 78 miles, more or less, to the northwest angle of the Township of Hincks; thence east along the south boundary of the townships of Cleaver, McNeil, Robertson, Sheba, Dunmore, Bompas, Grenfell, Teck, Lebel, and Gauthier; thence south along the west boundary of the Township of Hearst to the southwest angle thereof; thence east along the south boundary of the townships of Hearst and McFadden to the Interprovincial Boundary between Ontario and Quebec; thence south astronomically along the said Interprovincial Boundary to the head of Lake Timiskaming; thence southerly through Lake Timiskaming and the Ottawa River along the said Interprovincial Boundary to the place of beginning.

THE ELECTORAL DISTRICT OF VICTORIA—to consist of the County of Victoria and the Provisional County of Haliburton.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—to consist of the townships of Wellesley and Woolwich and the north part of the Township of Waterloo, the cities of Kitchener and Waterloo, the Town of Elmira, and the Village of Bridgeport.

THE ELECTORAL DISTRICT OF WATERLOO SOUTH—to consist of the townships of North Dumfries and Wilmot and the south part of the Township of Waterloo, the City of Galt, the towns of Hespeler and Preston, and the villages of Ayr and New Hamburg.

THE ELECTORAL DISTRICT OF WELLAND—to consist of the townships of Crowland, Humberstone, Thorold, Wainfleet and Pelham, the City of Welland, the towns of Port Colborne and Thorold, and the Village of Fonthill.

THE ELECTORAL DISTRICT OF WELLINGTON-DUFFERIN—to consist of the townships of Arthur, Erin, Amaranth, East Garafraxa, Eramosa, West Garafraxa, East Luther, West Luther, Maryborough, Minto, Peel, and Melancthon, the towns of Harrison and Mount Forest, and the villages of Arthur, Clifford, Drayton, Erin, Grand Valley, and Shelburne.

THE ELECTORAL DISTRICT OF WELLINGTON SOUTH—to consist of the townships of Guelph, Nichol, Pilkington, and Puslinch, the City of Guelph, the Town of Fergus, and the Village of Elora.

THE ELECTORAL DISTRICT OF WENTWORTH—to consist of that portion of the City of Hamilton lying on the Mountain and bounded on the north by the brow of the Mountain and on the south by the southerly limits of the City of Hamilton, the townships of Ancaster, Barton, Binbrook, and Glanford.

THE ELECTORAL DISTRICT OF WENTWORTH EAST—to consist of that portion of the City of Hamilton lying east of the centre line of Kenilworth Avenue; the Township of Saltfleet, and the Village of Stoney Creek.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—to consist of all that part of the City of Windsor, and the whole of the former Town of Walkerville, within the following limits: Commencing at a point on the centre line of Ouellette Avenue, in the City of Windsor, at its northern terminus; thence southerly along the centre line of Ouellette Avenue to Giles Boulevard; thence easterly along the centre line of Giles Boulevard to Howard Avenue; thence southerly along the centre line of Howard Avenue and proceeding in a straight line to the south boundary of the City of Windsor; thence easterly along the south boundaries of the City of Windsor and the former Town of Walkerville to the easterly limit of the former Town of Walkerville; thence northerly along the said easterly limit to the Detroit River; thence westerly along the bank of the said River to the place of beginning.

THE ELECTORAL DISTRICT OF WINDSOR-SANDWICH—to consist of that part of the City of Windsor and the whole of the former Town of Sandwich within the following limits: Commencing at the northern terminus of the westerly limit of the former Town of Sandwich; thence in a southerly direction along the said limit to the southerly limit of the former Town of Sandwich; thence easterly along the southern boundaries of the former Town of Sandwich and the City of Windsor to a point from which a straight line may be drawn through the centre line of Howard Avenue in the City of Windsor; thence northerly in a straight line through the centre line of Howard Avenue to the intersection of Howard Avenue with Giles Boulevard; thence westerly along the centre line of Giles Boulevard to the centre line of Ouellette Avenue; thence northerly along the centre line of Ouellette Avenue to the Detroit River; thence westerly along the bank of the said River to the place of beginning; the Township of Sandwich West, and the towns of LaSalle and Ojibway.

THE ELECTORAL DISTRICT OF YORK CENTRE—to consist of that portion of the Township of North York lying west of the centre line of Yonge Street.

THE ELECTORAL DISTRICT OF YORK EAST—to consist of the Township of East York, and that portion of the Township of North York lying east of the centre line of Yonge Street, and the Town of Leaside.

THE ELECTORAL DISTRICT OF YORK-HUMBER—to consist of all that portion of the Township of Etobicoke lying east of a line drawn as follows: Commencing at the southwesterly corner of the Town of Mimico; thence northerly along the westerly boundary and boundary produced of the Town of Mimico to an intersection with the Queen Elizabeth Way; thence easterly along the Queen Elizabeth Way to the intersection of Royal York Road; thence northerly along Royal York Road to the intersection of the westerly production of Sunnydale Drive; thence easterly along said production of Sunnydale Drive and Sunnydale Drive to the intersection of Prince Edward Drive; thence northerly along Prince Edward Drive to the intersection of Bloor Street West; thence easterly along Bloor Street West and Old Mill Road to the Humber River; together with the Town of Mimico and all that portion of the Township of York lying west of a line drawn as follows: Commencing at the Humber River at the south limit of the Town of Weston; thence easterly along said south limit to the southwesterly boundary of the Township of North York; thence southeasterly along the said southwesterly boundary

to the intersection of Jane Street; thence southerly along Jane Street to the intersection of Lambton Avenue; thence easterly along Lambton Avenue to the intersection of Weston Road; thence southeasterly along Weston Road to the Toronto city limit; thence westerly and southerly along the said city limit to the north limit of the Village of Swansea; thence westerly along the said north limit to the Humber River; together with the Village of Swansea and the Town of Weston and excluding therefrom Ellis Court Apartments.

**THE ELECTORAL DISTRICT OF YORK NORTH**—to consist of the townships of King, Whitchurch, Georgina, North Gwillimbury, East Gwillimbury, Markham, and Vaughan, the towns of Aurora and Newmarket and the villages of Markham, Richmond Hill, Stouffville, Sutton West and Woodbridge.

**THE ELECTORAL DISTRICT OF YORK-SCARBOROUGH**—to consist of the Township of Scarborough.

**THE ELECTORAL DISTRICT OF YORK SOUTH**—to consist of all that portion of the Township of York not included in the Electoral District of York-Humber; and the Village of Forest Hill.

**THE ELECTORAL DISTRICT OF YORK WEST**—to consist of that portion of the Township of Etobicoke not included in the Electoral District of York-Humber; the Town of New Toronto and the Village of Long Branch.

**THE ELECTORAL DISTRICT OF BEACHES**—to consist of that part of the City of Toronto bounded as follows: On the north by the north limit of the said city; on the south by the waters of Lake Ontario; on the east by the eastern limit of the said city, and on the west by the centre line of Woodbine Avenue and Woodbine Avenue produced southerly to the waters of Lake Ontario.

**THE ELECTORAL DISTRICT OF BELLWOODS**—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the western boundary of the Island intersects the centre line of Tecumseh Street, produced south; thence northerly along the centre line of Tecumseh Street to Palmerston Avenue; thence along the centre line of Palmerston Avenue to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Bathurst Street; thence north along the centre line of Bathurst Street to the centre line of the Canadian Pacific Railway tracks; thence easterly along the centre line of the Canadian Pacific Railway tracks to the centre line of Spadina Road; thence north along the centre line of Spadina Road and Spadina Road produced to the city limits; thence westerly along the city limits and southerly along the city limits and westerly along the city limits to intersection with the centre line of Christie Street, produced northerly; thence southerly and along the centre line of Christie Street to the centre line of Bloor Street; thence westerly along the centre line of Bloor Street to the centre line of Crawford Street; thence southerly along the centre line of Crawford Street to the centre line of King Street; thence easterly along the centre line of King Street to the centre line of Strachan Avenue; thence southerly along the centre line of Strachan Avenue and Strachan Avenue produced, to the waters of Lake Ontario; thence easterly along the waters of Lake Ontario to the place of beginning.

**THE ELECTORAL DISTRICT OF BRACONDALE**—to consist of that part of the City of Toronto bounded as follows: On the north by the city limits; on the south by the waters of Lake Ontario and on the east by an imaginary line drawn from the waters of Lake Ontario to the intersection of Strachan Avenue; thence along the centre line of Strachan Avenue to King Street;

thence west along the centre line of King Street to Crawford Street; thence along the centre line of Crawford Street to Bloor Street; thence easterly along the centre line of Bloor Street to the intersection of Christie Street; thence north along the centre line of Christie Street to the north city limits. It is bounded on the west by an imaginary line from Lake Ontario to Atlantic Avenue; thence north along the centre line of Atlantic Avenue to King Street; thence north from King Street to Dovercourt Road; thence north along the centre line of Dovercourt Road to Davenport Road; thence east on the centre line of Davenport Road to Oakwood Avenue; thence north on the centre line of Oakwood Avenue to the city limits.

THE ELECTORAL DISTRICT OF DOVERCOURT—to consist of that part of the City of Toronto bounded as follows: On the north by the city limits; on the south by the waters of Lake Ontario and on the east by an imaginary line running from the waters of Lake Ontario to the intersection of Atlantic Avenue; thence along the centre line of Atlantic Avenue to Dovercourt Road; thence along the centre line of Dovercourt Road to Davenport Road; thence easterly on the centre line of Davenport Road to Oakwood Avenue; thence along the centre line of Oakwood Avenue to the northern city limits. It is bounded on the west by an imaginary line drawn from the waters of Lake Ontario to the intersection of Spencer Avenue; thence along the centre line of Spencer Avenue to King Street; thence easterly along the centre line of King Street to Elm Grove Avenue; thence north along the centre line of Elm Grove Avenue to Queen Street; thence west along the centre line of Queen Street to Brock Avenue; thence north along the centre line of Brock Avenue to Wallace Avenue; thence west along the centre line of Wallace Avenue to Lansdowne Avenue; thence north along the centre line of Lansdowne Avenue to St. Clair Avenue; thence west along the centre line of St. Clair Avenue to the western limits of Prospect Cemetery; thence north to the city limits, not including McRoberts Avenue.

THE ELECTORAL DISTRICT OF EGLINTON—to consist of that part of the City of Toronto now known as Ward 9.

THE ELECTORAL DISTRICT OF HIGH PARK—to consist of that part of the City of Toronto now known as Ward 7, together with that part of Ward 6 of the said City described as follows: Commencing at the intersection of the centre line of Lansdowne Avenue with the Canadian Pacific Railway; thence northerly along the centre line of Lansdowne Avenue to St. Clair Avenue; thence westerly along the centre line of St. Clair Avenue to the westerly limit of Prospect Cemetery; thence northerly along the last-mentioned limit to the northerly limit of the said City; thence westerly along the last-mentioned limit to its intersection with the centre line of the Canadian Northern Railway, formerly the Northern Division of the Grand Trunk Railway System; thence southerly along the centre line of the said Railway to its intersection with the centre line of the Canadian Pacific Railway; thence easterly along the last-mentioned railway to the place of beginning.

THE ELECTORAL DISTRICT OF PARKDALE—to consist of that part of the City of Toronto bounded as follows: On the south by the waters of Lake Ontario; on the north by the centre line of Bloor Street from the intersection of Clendennan Avenue easterly to the boundary between Ward 6 and Ward 7; thence northerly along the centre line of the division between Ward 6 and Ward 7 to Humberside Avenue; thence east along the centre line of Humberside Avenue to the Canadian Pacific Railway; thence north on the Canadian Pacific Railway to the

intersection of the Canadian Pacific Railway line running east and west; thence easterly on the said Canadian Pacific Railway line to the intersection of Lansdowne Avenue. It is bounded on the east by an imaginary line from the waters of Lake Ontario to the intersection of Spencer Avenue; thence northerly along the centre line of Spencer Avenue to King Street; thence east along the centre line of King Street to Elm Grove Avenue; thence north along the centre line of Elm Grove Avenue to Queen Street; thence west on the centre line of Queen Street to Brock Avenue; thence north along the centre line of Brock Avenue to Wallace Avenue; thence west along the centre line of Wallace Avenue to Lansdowne Avenue; thence north along the centre line of Lansdowne Avenue to the Canadian Pacific Railway track. It is bounded on the west by the city limits from Lake Ontario to the intersection of Clendennan Avenue and Bloor Street.

**THE ELECTORAL DISTRICT OF RIVERDALE**—to consist of that part of the City of Toronto bounded as follows: On the east by a line drawn from the waters of Lake Ontario extending north along the centre line of Berkshire Avenue, produced southerly to a point at intersection with the southern boundary of Eastern Avenue; thence along the centre line of Berkshire Avenue to the centre line of Queen Street; thence easterly along the centre line of Queen Street to intersection with the centre line of Jones Avenue; thence north along the centre line of Jones Avenue to the centre line of Danforth Avenue; thence easterly along the centre line of Danforth Avenue to the centre line of Dewhurst Avenue; thence north along the centre line of Dewhurst Avenue to the city limits; bounded on the north by the limits of the said city; bounded on the west by the Don roadway and the said roadway produced southerly to intersection with the waters of Lake Ontario to a point intersecting the Don River; thence following the centre line of the Don River to the northern city limits; and bounded on the south by the waters of Lake Ontario.

**THE ELECTORAL DISTRICT OF ST. ANDREW**—to consist of that part of the City of Toronto bounded as follows: Commencing at a point on the northern boundary of the waters of Toronto Bay where the centre line of Peter Street produced southerly intersects said waters; thence westerly along the northern boundaries of the waters of said Toronto Bay to intersection with the northern boundary of the western channel; thence westerly along the said northern boundary to intersection with the western boundary of the Island; thence north-westerly along said western boundary to intersection with the centre line of Tecumseh Street produced southerly; thence north from the centre line of Tecumseh Street to Palmerston Avenue; thence along the centre line of Palmerston Avenue to the centre line of Bloor Street; thence east on the centre line of Bloor Street to the centre line of Bathurst Street; thence north on the centre line of Bathurst Street to the centre line of the Canadian Pacific Railway tracks; thence east on the centre line of the Canadian Pacific Railway tracks to the centre line of Spadina Road; thence southerly along the centre line of Spadina Road to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Huron Street; thence southerly along the centre line of Huron Street to the centre line of Phoebe Street; thence easterly along the centre line of Phoebe Street to the centre line of Soho Street; thence southerly along the centre line of Soho Street to the centre line of Queen Street; thence westerly along the centre line of Queen Street to the centre line of Peter Street; thence southerly along the centre line of Peter Street and Peter Street produced southerly to the place of beginning.

THE ELECTORAL DISTRICT OF ST. DAVID—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the Don roadway produced southerly intersects the waters of Lake Ontario; thence northerly along said Don roadway and Don roadway produced to intersection with the Don River; thence along the centre of the Don River to the northern city limits; thence westerly along the said northern city limits to intersection with the centre line of the belt line railway; thence northerly and northwesterly and westerly following the centre line of said belt line railway to intersection with the centre line of Yonge Street; thence southerly along the centre line of Yonge Street to the ravine crossing Yonge Street, nearly opposite Walmsley Boulevard; thence southeasterly following the centre of said ravine to intersection with the centre line of the Canadian Pacific Railway; thence easterly along the said centre line of the Canadian Pacific Railway to intersection with the centre line of MacLennan Avenue; thence southerly along the centre line of MacLennan Avenue to the centre line of Schofield Avenue; thence southerly along the centre line of Schofield Avenue to the centre line of Highland Avenue; thence southeasterly along the centre line of Highland Avenue to the centre line of Glen Road; thence southerly along the centre line of Glen Road to the centre line of South Drive; thence westerly along the centre line of South Drive to intersection with the centre line of Sherbourne Street; thence southerly along the centre line of Sherbourne Street and Sherbourne Street produced to the northern boundary of Toronto Bay; thence southeasterly in a straight line to the centre of the northerly end of the eastern channel; thence continuing southeasterly along the centre line of the eastern channel to the waters of Lake Ontario; thence easterly along the edge of the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF ST. GEORGE—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the northern boundary of the waters of Toronto Bay are intersected by the centre line of Sherbourne Street produced southerly; thence northerly along the said Sherbourne Street and Sherbourne Street produced southerly to intersection with the centre line of South Drive; thence easterly along the centre line of South Drive to intersection with the centre line of Glen Road; thence northerly along the centre line of Glen Road to intersection with the centre line of Highland Avenue; thence northwesterly along the centre line of Highland Avenue to the centre line of Schofield Avenue; thence northerly along the centre line of Schofield Avenue to intersection with the centre line of MacLennan Avenue; thence northerly along the centre line of MacLennan Avenue to the centre line of the Canadian Pacific Railway; thence westerly along the centre line of the Canadian Pacific Railway to intersection with the Ravine; thence northwesterly along the centre line of the Ravine to intersection with the centre line of Yonge Street; thence northerly along the centre line of Yonge Street to the centre line of the belt line railway; thence northwesterly along the centre line of the belt line railway to the city limits; thence southerly, easterly, southerly and westerly along the city limits to intersection with the centre line of Avenue Road produced northerly; thence southerly along the centre line of Avenue Road and Avenue Road produced northerly to the centre line of Davenport Road; thence easterly and southeasterly along the centre line of Davenport Road to intersection with the centre line of Bay Street; thence southerly along the centre line of Bay Street and Bay Street produced to the northern boundary of the waters of Toronto Bay; thence easterly along the northern boundary of the waters of Toronto Bay to the place of beginning.



THE ELECTORAL DISTRICT OF ST. PATRICK—to consist of that part of the City of Toronto bounded as follows: Commencing at a point where the waters of Lake Ontario are intersected by the centre line of the eastern channel; thence northwesterly along the centre line of the eastern channel to the centre at the north boundary of said channel; thence northwesterly in a straight line to a point on the northern boundary of the waters of Toronto Bay intersected by the centre line of Sherbourne Street produced southerly; thence westerly along the northern boundary of the waters of Toronto Bay to intersection with the production southerly of the centre line of Bay Street; thence northerly along the production southerly of the centre line of Bay Street and the centre line of Bay Street to intersection with the centre line of Davenport Road; thence northwesterly along the centre line of Davenport Road to the centre line of Avenue Road; thence northerly along the centre line of Avenue Road and Avenue Road produced to the city limit; thence westerly along the northern boundary of the city limit to intersection with the centre line of Spadina Road, produced northerly; thence southerly along the centre line of Spadina Road to the centre line of Bloor Street; thence easterly along the centre line of Bloor Street to the centre line of Huron Street; thence southerly along the centre line of Huron Street to the centre line of Phoebe Street; thence easterly along the centre line of Phoebe Street to the centre line of Soho Street; thence southerly along the centre line of Soho Street to the centre line of Queen Street; thence westerly along the centre line of Queen Street to the centre line of Peter Street; thence southerly along the centre line of Peter Street and Peter Street produced southerly to the northern boundary of the waters of Toronto Bay; thence westerly following the northern boundary of the waters of Toronto Bay and along the northern boundary of the western channel to intersection with the western boundary of Toronto Island; thence southerly across the western channel and along the western boundary of the said Island and along the waters of Lake Ontario and easterly along the southern boundary of the said Island and along the waters of Lake Ontario to the place of beginning.

THE ELECTORAL DISTRICT OF WOODBINE—to consist of that part of the City of Toronto bounded as follows: On the east by the centre line of Woodbine Avenue, said centre line produced southerly to the waters of Lake Ontario; on the south by the waters of Lake Ontario; on the west by a line drawn from the waters of Lake Ontario, extending north along the centre line of Berkshire Avenue produced southerly to a point at intersection with the southern boundary of Eastern Avenue; thence along the centre line of Berkshire Avenue to the centre line of Queen Street; thence easterly along the centre line of Queen Street to intersection with the centre line of Jones Avenue; thence along the centre line of Jones Avenue to intersection with the centre line of Danforth Avenue; thence easterly to intersection with the centre line of Dewhurst Avenue; thence north along the said centre line of Dewhurst Avenue to the city limits and bounded on the north by the city limits.

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## CHAPTER 354

**The Rights of Labour Act****1. In this Act,**Interpre-  
tation

- (a) "collective bargaining agreement" means an agreement between an employer and a trade union setting forth terms and conditions of employment;
- (b) "trade union" means a combination, whether temporary or permanent, having among its objects the regulating of relations between employees and employers or between employees and employees or between employers and employers. R.S.O. 1950, c. 341, s. 1.

**2.** A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are in restraint of trade. R.S.O. 1950, c. 341, s. 2.

**3.—(1)** Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, is not actionable unless the act would be actionable if done without any agreement or combination.

Acts done by  
two or more  
members

**(2)** A trade union shall not be made a party to any action in any court unless it may be so made a party irrespective of any of the provisions of this Act or of *The Labour Relations Act*.

Trade  
union,  
party to  
action

**(3)** A collective bargaining agreement shall not be the subject of any action in any court unless it may be the subject of such action irrespective of any of the provisions of this Act or of *The Labour Relations Act*.

Collective  
bargaining  
agreement,  
subject of  
action

**(4)** Nothing in this Act shall be construed to prevent or otherwise affect the prosecution of a trade union or a member thereof under *The Labour Relations Act*. R.S.O. 1950, c. 341, s. 3.

Prosecutions  
under R.S.O.  
1960, c. 202,  
not effective

**4.** The *Reinstatement in Civil Employment Act* (Canada) applies in Ontario notwithstanding the termination of World War II, and notwithstanding the repeal thereof by the Parliament of Canada. R.S.O. 1950, c. 341, s. 4.

Application of  
R.S.C. 1952,  
c. 236



## CHAPTER 355

## The Rural Housing Assistance Act

1.—(1) There shall be incorporated under *The Corporations Act* a company with the name "The Rural Housing Finance Corporation", herein called "the Company", with power to lend and invest money on mortgage of real estate in order to provide financial assistance in the building of houses in rural villages and hamlets and in other rural areas. Lending corporation to be created R.S.O. 1960, c. 71

(2) Notwithstanding subsection 2 of section 3 of *The Corporations Act*, the Company may issue bonds, debentures or debenture stock. 1952, c. 92, s. 1. Power to issue debentures

2. The Company may exercise its power of lending money independently or in co-operation with Central Mortgage and Housing Corporation under the *National Housing Act* (Canada) or with any other corporation incorporated for similar purposes. 1952, c. 92, s. 2. Exercise of powers R.S.C. 1952, c. 188

3.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to purchase or to guarantee the payment of any notes, bonds, debentures or debenture stock issued by the Company. Provincial guarantee

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. Form of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province and is not open to question upon any ground whatsoever. 1952, c. 92, s. 3. Validity of guaranty

4.—(1) The Lieutenant Governor in Council may advance moneys by way of loan or otherwise to the Company for its purposes. Provincial advance on loans

(2) Any moneys advanced or loaned to the Company by the Crown under this Act shall be paid out of the Consolidated Revenue Fund. 1952, c. 92, s. 4. Idem

5. The cost of administration of this Act shall be paid out of the Consolidated Revenue Fund. 1952, c. 92, s. 5. Cost of administration

Administra-  
tion of  
Act

**6.** This Act shall be administered by the Minister of Planning and Development or such other member of the Executive Council to whom it may be assigned by the Lieutenant Governor in Council. 1952, c. 92, s. 6.

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## CHAPTER 356

## The Rural Hydro-Electric Distribution Act

1. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any commission or municipal corporation distributing power in a rural power district under *The Power Commission Act*, a sum not exceeding 50 per cent of the capital cost of acquiring and constructing in the rural power district, lands and works, including plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment, for the supply of power to any customer or premises up to the point of delivery by such commission or corporation. R.S.O. 1960, c. 300.

Grants in aid of distribution works in rural power districts

R.S.O. 1960, c. 300

2. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to the corporation of a township or of an urban municipality supplying or distributing electrical power or energy in an adjoining township or within a rural power district under *The Public Utilities Act* or any other general or special Act, a sum not exceeding 50 per cent of the capital cost of constructing or erecting in such adjoining township or rural power district primary transmission lines and cables, service transformers and meters and secondary lines on the highway required for the delivery of power or energy in such adjoining township or in such rural power district. R.S.O. 1950, c. 342, s. 2.

Grants in aid of works in townships or urban municipality adjoining township in rural power district

R.S.O. 1960, c. 335

3. All sums paid to any commission or municipal corporation under the authority of section 1 or 2 shall be chargeable in the books of the Treasurer of Ontario as expenditure upon capital account. R.S.O. 1950, c. 342, s. 3.

Grants chargeable to capital account





## CHAPTER 357

## The Rural Power District Loans Act

## 1. In this Act,

Interpre-  
tation

- (a) "Commission" means The Hydro-Electric Power Commission of Ontario;
- (b) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 343, s. 1.

2.—(1) The Lieutenant Governor in Council may set <sup>Fund set apart</sup> apart out of the Consolidated Revenue Fund a sum not exceeding \$2,000,000 for the purpose of providing advances towards the installation of electrical services in rural power districts.

(2) The Lieutenant Governor in Council may from time <sup>Payments out of fund to Commission</sup> to time direct that such payments be made to the Commission out of the moneys so set apart as the Commission may report to be necessary in order to enable advances to be made under this Act.

(3) Subject to the regulations, the installation in respect of <sup>Installation to include</sup> which aid may be granted under this Act includes,

- (a) wiring from the transmission or distribution lines of the Commission into and throughout dwellings, barns, outhouses and any other works that may from time to time be specified in the regulations;
- (b) such transformers, motors and other appliances as may be necessary or expedient for any industrial, agricultural or domestic purposes or which may be specified in the regulations. R.S.O. 1950, c. 343, s. 2.

3.—(1) A person assessed as owner and being the actual <sup>Application for advance</sup> owner of lands and premises in a rural power district desiring to procure an advance under this Act may make application, in the form prescribed by the regulations, to the Commission.

(2) The application shall not be acted upon unless it is <sup>Proofs to accompany application</sup> accompanied by the declaration of the applicant stating that he is the actual owner of the lands and premises mentioned in the application and that they are free from encumbrance, or if the lands and premises, or any part thereof, are mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and where the mortgage or

encumbrance has been assigned, the name and address of the assignee.

Notice to  
encum-  
brancers

(3) Where it appears that there is a mortgage or encumbrance upon the lands or premises or any part thereof the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter sent to him by the secretary of the Commission to his last-known address. R.S.O. 1950, c. 343, s. 3.

Limit of  
amount of  
advance

4. An advance under this Act shall not exceed in amount the sum of \$1,000 in the case of any one owner, and every advance is repayable with interest within twenty years at the furthest. R.S.O. 1950, c. 343, s. 4.

Control as  
to installa-  
tion and  
specifica-  
tions

5. Every installation in respect of which an advance is made under this Act shall be made in such manner and according to such specifications as the Commission may prescribe and the work of installation is subject to the approval of the Commission and no advance shall be made under this Act except upon the recommendation of the Commission. R.S.O. 1950, c. 343, s. 5.

Repayment  
of advance

6.—(1) Every advance made under this Act is a debt due from the owner of the lands and premises upon which the installation is made to the Commission and is repayable to the Commission at the time and in such manner as may be prescribed by the regulations, and the amounts so received by the Commission shall be transmitted to the Treasurer of Ontario.

Default  
in repayment  
of advance

(2) Where default is made in the repayment of any advance under this Act, or in any instalment thereof, or in the payment of interest thereon, the Commission may give notice in writing of such default to the clerk of the municipality in which the lands and premises are situate, and the amount in default shall thereupon be inserted in the collector's roll as a tax in the same manner as in the case of municipal taxes, and when collected shall be paid over by the treasurer of the municipality to the Commission. R.S.O. 1950, c. 343, s. 6.

Registration  
of notice  
of lien

7.—(1) The Commission shall cause a notice of the advance, in the form prescribed by the regulations, to be registered in the proper registry or land titles office and such registration is notice to subsequent purchasers or mortgagees or other encumbrancers that the advance made under this Act is a lien or charge upon the lands and premises owned by the applicant.

(2) Where notice has been registered under subsection 1 and the advance has been subsequently repaid, a certificate of repayment in the form prescribed by the regulations may be delivered to the owner of the lands and premises and may be registered by him, and such registration has the effect of discharging the lien or charge. <sup>Registration of certificate of repayment</sup>

(3) The fee for registering a notice or certificate of repayment under this section is 50 cents. R.S.O. 1950, c. 343, s. 7. <sup>Fee</sup>

**8.—**(1) The property in any works installed in respect of which an advance is made under this Act is, while such advance remains unpaid, in the Commission, and in addition to any other remedy, in case of default in repayment of the advance, or of any instalment thereof, or in the payment of interest thereon, the Commission may by its officers, servants and agents enter upon the premises and take possession of and remove transformers, motors or other appliances or fixtures forming part of such installation. <sup>Property in works to be in Commission until advance repaid</sup>

(2) A chattel mortgage, lien note or other instrument registered or filed, or any judgment or other legal process does not have priority over the lien created by an advance from the Commission under this Act. R.S.O. 1950, c. 343, s. 8. <sup>Priority over lien note, etc.</sup>

**9.** The Lieutenant Governor in Council may make regulations prescribing the terms and conditions upon which advances may be made under this Act and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 343, s. 9. <sup>Regulations</sup>

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## CHAPTER 358

## The Sale of Goods Act

## 1.—(1) In this Act,

Interpre-  
tation

- (a) “action” includes a counterclaim and a set-off;
- (b) “buyer” means the person who buys or agrees to buy goods;
- (c) “contract of sale” includes an agreement to sell as well as a sale;
- (d) “delivery” means the voluntary transfer of possession from one person to another;
- (e) “document of title” includes a bill of lading and warehouse receipt as defined by *The Mercantile Law Amendment Act* any warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented; R.S.O. 1960,  
c. 238
- (f) “fault” means a wrongful act or default;
- (g) “goods” means all chattels personal, other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;
- (h) “plaintiff” includes a defendant counterclaiming;
- (i) “property” means the general property in goods and not merely a special property;
- (j) “quality of goods” includes their state or condition;
- (k) “sale” includes a bargain and sale as well as a sale and delivery;
- (l) “seller” means a person who sells or agrees to sell goods;
- (m) “specific goods” means the goods identified and agreed upon at the time the contract of sale is made;

(n) "warranty" means an agreement with reference to goods that are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated.

Things done  
in good  
faith

(2) A thing shall be deemed to be done in good faith within the meaning of this Act when it is in fact done honestly whether it is done negligently or not.

What  
deemed  
insolvency

(3) A person shall be deemed to be insolvent within the meaning of this Act who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

Deliverable  
state

(4) Goods shall be deemed to be in a "deliverable state" within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them. R.S.O. 1950, c. 345, s. 1.

## PART I

### FORMATION OF THE CONTRACT

Sale and  
agreement  
to sell

2.—(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in the goods to the buyer for a money consideration, called the price, and there may be a contract of sale between one part owner and another.

Absolute or  
conditional

(2) A contract of sale may be absolute or conditional.

What  
constitutes  
a sale or  
agreement  
to sell

(3) Where under a contract of sale the property in goods is transferred from the seller to the buyer, the contract is called a sale, but, where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

When  
agreement  
becomes  
sale

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. R.S.O. 1950, c. 345, s. 2.

Capacity

3.—(1) Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property, but where necessities are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he must pay a reasonable price therefor.

(2) Necessaries in this section mean goods suitable to the conditions in life of such infant or minor or other person and to his actual requirements at the time of the sale and delivery. <sup>What deemed necessities</sup>  
R.S.O. 1950, c. 345, s. 3.

4. Subject to this Act and any statute in that behalf, a contract of sale may be made in writing, either with or without seal, or by word of mouth or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties, but nothing in this section affects the law relating to corporations. <sup>Contract, how made</sup>  
R.S.O. 1950, c. 345, s. 4.

5.—(1) A contract for the sale of goods of the value of \$40 or upwards is not enforceable by action unless the buyer accepts part of the goods so sold and actually receives the same, or gives something in earnest to bind the contract or in part payment, or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf. <sup>Contracts for \$40 or upwards</sup>

(2) This section applies to every such contract notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of the contract be actually made, procured, or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering them fit for delivery. <sup>Future delivery</sup>

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods that recognizes a pre-existing contract of sale, whether there is an acceptance in performance of the contract or not. <sup>Acceptance of goods, what constitutes</sup>  
R.S.O. 1950, c. 345, s. 5.

6.—(1) The goods that form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Act called "future goods". <sup>What goods may be subject of contract</sup>

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency that may or may not happen. <sup>Contingency</sup>

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods. <sup>Sale of future goods</sup>  
R.S.O. 1950, c. 345, s. 6.

7. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time the contract is made, the contract is void. <sup>Goods that have perished</sup>  
R.S.O. 1950, c. 345, s. 7.

Goods  
perishing  
before sale  
but after  
agreement  
to sell

**8.** Where there is an agreement to sell specific goods and subsequently the goods without any fault of the seller or buyer perish before the risk passes to the buyer, the agreement is thereby avoided. R.S.O. 1950, c. 345, s. 8.

Price  
determined

**9.—(1)** The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

Where  
price not  
determined

**(2)** Where the price is not determined in accordance with the foregoing provisions, the buyer must pay a reasonable price, and what constitutes a reasonable price is a question of fact dependent on the circumstances of each particular case. R.S.O. 1950, c. 345, s. 9.

Agreement  
to sell at  
valuation

**10.—(1)** Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and the third party cannot or does not make the valuation, the agreement is avoided, but if the goods or any part thereof have been delivered to and appropriated by the buyer, he must pay a reasonable price therefor.

Valuation  
prevented  
by act of  
party

**(2)** Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. R.S.O. 1950, c. 345, s. 10.

Stipulations  
as to time

**11.** Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale, and whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. R.S.O. 1950, c. 345, s. 11.

When  
condition  
to be  
treated a  
warranty

**12.—(1)** Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

Stipulation  
which may be  
condition or  
warranty

**(2)** Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract, and a stipulation may be a condition, though called a warranty in the contract.



(3) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

Where  
breach of  
condition to  
be treated  
as breach of  
warranty

(4) Nothing in this section affects the case of a condition or warranty, fulfillment of which is excused by law by reason of impossibility or otherwise. R.S.O. 1950, c. 345, s. 12.

Fulfillment  
excused by  
impossibility

**13.** In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is,

Implied  
conditions  
and  
warranties

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;
- (b) an implied warranty that the buyer will have and enjoy quiet possession of the goods; and
- (c) an implied warranty that the goods will be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made. R.S.O. 1950, c. 345, s. 13.

**14.** Where there is a contract for the sale of goods by description, there is an implied condition that the goods will correspond with the description, and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. R.S.O. 1950, c. 345, s. 14.

Sale by  
description

**15.** Subject to this Act and any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:

Implied  
conditions  
as to  
quality or  
fitness

1. Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description that it is in the course of the seller's business to supply (whether he is the manufacturer or not), there is an implied condition that the goods will be reasonably fit for such purpose, but

in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose.

2. Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or not), there is an implied condition that the goods will be of merchantable quality, but if the buyer has examined the goods, there is no implied condition as regards defects that such examination ought to have revealed.
3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
4. An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith. R.S.O. 1950, c. 345, s. 15.

Sale by  
sample

**16.—(1)** A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

Implied  
conditions

(2) In the case of a contract for sale by sample, there is an implied condition,

- (a) that the bulk will correspond with the sample in quality;
- (b) that the buyer will have a reasonable opportunity of comparing the bulk with the sample; and
- (c) that the goods will be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample. R.S.O. 1950, c. 345, s. 16.

## PART II

### EFFECTS OF THE CONTRACT

Goods  
must be  
ascertained

**17.** Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained. R.S.O. 1950, c. 345, s. 17.

Property  
passes where  
intended  
to pass

**18.—(1)** Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. Ascertaining intention  
R.S.O. 1950, c. 345, s. 18.

**19.** Unless a different intention appears, the following Rules for ascertaining intention are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

*Rule 1.*—Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both is postponed.

*Rule 2.*—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

*Rule 3.*—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

*Rule 4.*—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms, the property therein passes to the buyer:

- (i) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
- (ii) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time, and what is a reasonable time is a question of fact.

*Rule 5.*—(i) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to

the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer, and such assent may be expressed or implied and may be given either before or after the appropriation is made;

- (ii) where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract. R.S.O. 1950, c. 345, s. 19.

Reservation  
of right of  
disposal

**20.**—(1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled, and in such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller have been fulfilled.

Goods  
deliverable  
to order  
of seller

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

Where seller  
draws on  
buyer and  
sends draft  
with bill of  
lading

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he unlawfully retains the bill of lading the property in the goods does not pass to him. R.S.O. 1950, c. 345, s. 20.

Risk  
*prima facie*  
passes with  
property

**21.** Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but, when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not, but,

- (a) where delivery has been delayed through the fault of either the buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault; and

- (b) nothing in this section affects the duties or liabilities of either seller or buyer as a bailee of the goods of the other party. R.S.O. 1950, c. 345, s. 21.

**22.** Subject to this Act, where goods are sold by a person Sale by person other than owner who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell but nothing in this Act affects,

- (a) *The Factors Act* or any enactment enabling the R.S.O. 1960, c. 129 apparent owner of goods to dispose of them as if he were the true owner thereof; or
- (b) the validity of any contract of sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. R.S.O. 1950, c. 345, s. 22.

**23.** The law relating to market overt does not apply to a Law as to market overt does not apply sale of goods that takes place in Ontario. R.S.O. 1950, c. 345, s. 23.

**24.** When the seller of goods has a voidable title thereto Sale under voidable title but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, if he buys them in good faith and without notice of the seller's defective title. R.S.O. 1950, c. 345, s. 24.

**25.—**(1) Where a person having sold goods continues or Seller in possession after sale is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under a sale, pledge or other disposition thereof to a person receiving the same in good faith and without notice of the previous sale, has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

(2) Where a person having bought or agreed to buy goods Buyer in possession after sale obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title, under a sale, pledge or other disposition thereof to a person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

Interpre-  
tation

(3) In this section, "mercantile agent" means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods. R.S.O. 1950, c. 345, s. 25.

### PART III

#### PERFORMANCE OF THE CONTRACT

Duties of  
seller and  
buyer

**26.** It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. R.S.O. 1950, c. 345, s. 26.

Payment  
and delivery  
concurrent

**27.** Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods. R.S.O. 1950, c. 345, s. 27.

Rules as to  
delivery

**28.—(1)** Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties, and apart from any such contract, express or implied, the place of delivery is the seller's place of business, if he has one, and if not, his residence, but where the contract is for the sale of specific goods that to the knowledge of the parties, when the contract is made, are in some other place, then that place is the place of delivery.

Where no  
time for  
delivery  
fixed

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

Where  
goods in  
possession  
of third  
person

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by the seller to the buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf, but nothing in this section affects the operation of the issue or transfer of any document of title to goods.

Demand or  
tender of  
delivery

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour, and what is a reasonable hour is a question of fact.

Expenses  
of putting  
goods in  
deliverable  
state

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods in a deliverable state shall be borne by the seller. R.S.O. 1950, c. 345, s. 28.

**29.**—(1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered, he must pay for them at the contract rate. Delivery of wrong quantity

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole, and if the buyer accepts the whole of the goods so delivered, he must pay for them at the contract rate. Where quantity larger than contracted for

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest, or he may reject the whole. Goods not in accordance with contract

(4) This section is subject to any usage of trade, special agreement or course of dealing between the parties. R.S.O. 1950, c. 345, s. 29. Exceptions as to trade customs, etc.

**30.**—(1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments. Delivery by instalments

(2) Where there is a contract for the sale of goods to be delivered by stated instalments that are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or fails to deliver one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. R.S.O. 1950, c. 345, s. 30. Where instalments are not delivered as contracted for

**31.**—(1) Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, the delivery of the goods to a carrier whether named by the buyer or not, for the purpose of transmission to the buyer, is *prima facie* a delivery of the goods to the buyer. Delivery to carrier

(2) Unless otherwise authorized by the buyer, the seller must make a contract with the carrier on behalf of the buyer that is reasonable having regard to the nature of the goods and the other circumstances of the case, and if the seller omits so to do and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages. R.S.O. 1950, c. 345, s. 31. Seller's contract with carrier

Agreement  
for delivery  
elsewhere  
than at  
place of  
sale

**32.** Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer must nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit. R.S.O. 1950, c. 345, s. 32.

Right of  
buyer as  
to examina-  
tion

**33.**—(1) Where goods are delivered to the buyer that he has not previously examined, he is deemed not to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

Seller to  
afford  
opportunity  
for  
examination

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. R.S.O. 1950, c. 345, s. 33.

Acceptance  
of goods

**34.** The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them that is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them. R.S.O. 1950, c. 345, s. 34.

Effect of  
refusal to  
accept

**35.** Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them. R.S.O. 1950, c. 345, s. 35.

Wrongful  
neglect or  
refusal to  
take  
delivery

**36.** When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods, but nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. R.S.O. 1950, c. 345, s. 36.

## PART IV

### RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Interpre-  
tation

**37.**—(1) The seller of goods is deemed to be an “unpaid seller” within the meaning of this Act,



- (a) when the whole of the price has not been paid or tendered;
- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Part, "seller" includes a person who is in the <sup>Idem</sup> position of a seller, as for instance, an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid or is directly responsible for the price. R.S.O. 1950, c. 345, s. 37.

**38.**—(1) Subject to this Act and any statute in that <sup>Rights of unpaid seller</sup> behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law,

- (a) a lien on the goods or right to retain them for the price while he is in possession of them;
- (b) in case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them;
- (c) a right of resale as limited by this Act.

(2) Where the property in goods has not passed to the <sup>Withholding delivery</sup> buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with the rights of lien and stoppage in transitu where the property has passed to the buyer. R.S.O. 1950, c. 345, s. 38.

**39.**—(1) Subject to this Act, the unpaid <sup>Unpaid seller's lien</sup> seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price,

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit but the term of credit has expired; or
- (c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding <sup>Seller in possession as agent</sup> that he is in possession of the goods as agent or bailee for the buyer. R.S.O. 1950, c. 345, s. 39.

**40.** Where an unpaid seller has made part delivery of the <sup>Where part delivery has been made</sup> goods, he may exercise his right of lien or retention on the remainder unless the part delivery has been made under such

circumstances as show an agreement to waive the lien or right of retention. R.S.O. 1950, c. 345, s. 40.

Termination  
of lien

**41.**—(1) The unpaid seller of goods loses his lien or right of retention thereon,

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
- (b) when the buyer or his agent lawfully obtains possession of the goods; or
- (c) by waiver thereof.

Lien not  
lost by  
obtaining  
judgment  
for price

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment for the price of the goods. R.S.O. 1950, c. 345, s. 41.

Right of  
stoppage in  
transitu

**42.** Subject to this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transitu, that is to say, he may resume possession of the goods as long as they are in course of transit, and may retain them until payment or tender of the price. R.S.O. 1950, c. 345, s. 42.

Duration  
of transit

**43.**—(1) Goods are deemed to be in course of transit from the time they are delivered to a carrier by land or water or other bailee for the purpose of transmission to the buyer until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

Buyer  
obtaining  
delivery

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

Carrier  
holding  
goods to  
buyer's  
order

(3) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

Rejected  
goods

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is deemed not to be at an end even if the seller has refused to receive them back.

Ship  
chartered  
by buyer

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the

particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed to be at an end. Wrongful refusal to deliver

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transitu unless the part delivery has been made under such circumstances as show an agreement to give up possession of the whole of the goods. R.S.O. 1950, c. 345, s. 43. Where part delivery has been made

**44.**—(1) The unpaid seller may exercise his right of stoppage in transitu either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are, and such notice may be given either to the person in actual possession of the goods or to his principal, and in the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer. How right may be exercised

(2) When notice of stoppage in transitu is given by the seller to the carrier or other bailee in possession of the goods, he must redeliver the goods to or according to the directions of the seller, and the expenses of such redelivery shall be borne by the seller. R.S.O. 1950, c. 345, s. 44. Redelivery after notice to carrier, etc.

**45.** Subject to this Act, the unpaid seller's right of lien or retention or stoppage in transitu is not affected by any sale or other disposition of the goods that the buyer may have made, unless the seller has assented thereto, but where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if the last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage in transitu is defeated, and if the last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage in transitu can only be exercised subject to the rights of the transferee. R.S.O. 1950, c. 345, s. 45. Effect of subsale or pledge by buyer

**46.**—(1) Subject to this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage in transitu. Exercise of right of lien or stoppage, effect on contract

Title of  
buyer on  
resale

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage in transitu resells the goods, the buyer acquires a good title thereto as against the original buyer.

Resale and  
right to  
damages  
for breach  
of contract

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

Where  
resale  
rescinds  
contract

(4) Where the seller expressly reserves a right of resale in case the buyer should make default, and on the buyer making default, resells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages. R.S.O. 1950, c. 345, s. 46.

## PART V

### ACTIONS FOR BREACH OF THE CONTRACT

Seller may  
maintain  
action for  
price

**47.**—(1) Where, under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods.

Where  
property  
in goods  
has not  
passed

(2) Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay the price, the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract. R.S.O. 1950, c. 345, s. 47.

Action for  
non-  
acceptance

**48.**—(1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

Measure of  
damages

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

Difference  
in price

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept. R.S.O. 1950, c. 345, s. 48.

**49.**—(1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery. Buyer may maintain action for non-delivery

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract. Measure of damages

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver. R.S.O. 1950, c. 345, s. 49. Difference in price

**50.** In an action for breach of contract to deliver specific or ascertained goods, the court may, if it thinks fit, direct that the contract be performed specifically, without giving the defendant the option of retaining the goods on payment of damages, and may impose such terms and conditions as to damages, payment of the price, and otherwise, as to the court seems just. R.S.O. 1950, c. 345, s. 50. Specific performance

**51.**—(1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat a breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods, but he may, Breach of warranty

(a) set up against the seller the breach of warranty in diminution or extinction of the price; or

(b) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty. Measure of damages

(3) In the case of breach of warranty of quality, such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty. Breach of warranty as to quality

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. R.S.O. 1950, c. 345, s. 51. Right of action

**52.** Nothing in this Act affects the right of the buyer or the seller to recover interest or special damages in a case Other rights of buyer preserved

where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed. R.S.O. 1950, c. 345, s. 52.

## PART VI

### SUPPLEMENTARY

Exclusion  
of implied  
laws and  
conditions

**53.** Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract. R.S.O. 1950, c. 345, s. 53.

Reasonable  
time a  
question  
of fact

**54.** Where by this Act any reference is made to a "reasonable time", the question of what is a reasonable time is a question of fact. R.S.O. 1950, c. 345, s. 54.

Rights  
enforceable  
by action

**55.** Where any right, duty or liability is declared by this Act, it may, unless otherwise provided by this Act, be enforced by action. R.S.O. 1950, c. 345, s. 55.

Sales by  
auction

**56.** In case of a sale by auction,

- (a) where goods are put up for sale in lots, each lot is *prima facie* deemed to be the subject of a separate contract of sale;
- (b) a sale is complete when the auctioneer announces its completion by the fall of a hammer or in any other customary manner, and until such announcement is made any bidder may retract his bid;
- (c) where a sale is not notified to be subject to a right to bid on behalf of the seller, it is not lawful for the seller to bid himself or to employ a person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person, and any sale contravening this rule may be treated as fraudulent by the buyer;
- (d) a sale may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller;
- (e) where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction. R.S.O. 1950, c. 345, s. 56.

Application  
of common  
law and law  
merchant

**57.—(1)** The rules of the common law, including the law merchant, save in so far as they are inconsistent with the

express provisions of this Act, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake or other invalidating cause, continue to apply to contracts for the sale of goods. R.S.O. 1950, c. 345, s. 57 (1).

(2) Nothing in this Act affects enactments relating to conditional sales, bills of sale or chattel mortgages. R.S.O. 1950, c. 345, s. 57 (2), *amended*. <sup>Bills of sale, etc., not affected</sup>

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale that is intended to operate by way of mortgage, pledge, charge or other security. R.S.O. 1950, c. 345, s. 57 (3). <sup>Act not to apply to mortgages, etc.</sup>

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## CHAPTER 359

## The Sanatoria for Consumptives Act

## 1. In this Act,

Inter-  
pretation

- (a) "association" means any association, body or organization howsoever incorporated, authorized or empowered for the purpose of establishing, maintaining or operating a sanatorium;
- (b) "board" means the board of trustees, directors, commission or other governing body or authority of a sanatorium;
- (c) "Department" means the Department of Health;
- (d) "inspector" means an officer of the Department designated under this Act as an inspector;
- (e) "local board" means a local board of health established under *The Public Health Act*;
- (f) "local municipality" means a city, town, village or township;
- (g) "medical officer of health" means a medical officer of health appointed under *The Public Health Act* or a person having the powers of such an officer;
- (h) "Minister" means the Minister of Health;
- (i) "patient" means a person admitted to a sanatorium for the purpose of treatment;
- (j) "post-sanatorium care" of a former patient includes,
  - (i) transportation from the sanatorium to the place of residence,
  - (ii) proper living accommodation, food, clothing and any other necessities of life, and
  - (iii) special treatment for tuberculosis and transportation to and from any place at which such special treatment is available;
- (k) "provincial aid" means aid granted to a sanatorium out of moneys appropriated for the purpose by the Legislature;

R.S.O. 1960,  
c. 321

- (l) "regulations" means the regulations made under this Act;
- (m) "resident" means a person who has actually resided in a local municipality for the period of three months within the six months next prior to admission to a sanatorium;
- (n) "sanatorium" means any sanatorium, institution, building or other premises or place, howsoever created, established or incorporated for the treatment of patients;
- (o) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a sanatorium;
- (p) "territorial district" means a territorial district under *The Territorial Division Act*;
- (q) "treatment" means the stay, maintenance, observation, care, nursing and treatment of a patient who has or is suspected of having tuberculous disease;
- (r) "unorganized territory" means that part of a territorial district that is without municipal organization.

R.S.O. 1960,  
c. 395

R.S.O. 1950, c. 346, s. 1.

## PART I

### ESTABLISHMENT, OPERATION, INSPECTION OF SANATORIA

Sanatoria  
aided in  
1930  
approved

**2.**—(1) The several institutions with their respective properties and appurtenances that, under *The Sanatoria for Consumptives Act*, being chapter 257 of the Revised Statutes of Ontario, 1927, received aid for the year 1930 from the Province shall, for the purposes of this Act, be deemed to be sanatoria as if they had been approved under this Act.

New san-  
atoria to be  
approved

(2) No institution, building or other premises or place shall hereafter be created, established, incorporated, operated or used as a sanatorium until it has been approved by the Lieutenant Governor in Council.

Suspension  
or revoca-  
tion of  
approval

(3) Any approval given or deemed to have been given under this Act in respect of any sanatorium may be suspended by the Minister or revoked by the Lieutenant Governor in Council. R.S.O. 1950, c. 346, s. 2.

Inspectors

**3.** The Minister, with the approval of the Lieutenant Governor in Council, may designate one or more officers of the Department to be inspectors for the purposes of this Act and the regulations. R.S.O. 1950, c. 346, s. 3.

4. Every sanatorium approved or deemed to be approved <sup>Powers of sanatorium</sup> under this Act may be carried on under the powers and authorities conferred by any general or special Act under which it was created, established, incorporated or empowered, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act or the regulations prevail. R.S.O. 1950, c. 346, s. 4.

## PART II

### MUNICIPAL SANATORIA

5. Subject to this Act, any municipal corporation, including a county or, jointly, any two or more such municipal corporations, may establish a sanatorium, and may for that purpose acquire land and erect and equip buildings thereon and do such other things as may be necessary or incidental to the establishment, completion, maintenance and operation of a sanatorium, and the carrying out of this Act and the regulations. R.S.O. 1950, c. 346, s. 5. <sup>Establishment of municipal sanatorium</sup>

6. When two or more municipal corporations propose <sup>Provisional agreement for joint sanatorium</sup> jointly to establish a sanatorium, the councils of the corporations shall provisionally agree upon the proposal. R.S.O. 1950, c. 346, s. 6.

7. Any municipal corporation or corporations that propose to establish a sanatorium shall submit the proposals to the Minister and therewith shall also submit such provisional by-laws, agreements, plans, estimates and other material and information as are required by the regulations. R.S.O. 1950, c. 346, s. 7. <sup>Submission of proposals to Minister</sup>

8. If the site for a proposed sanatorium is situate elsewhere in Ontario than in the municipality or in one of the municipalities, the corporation of which is proposing or is a party to proposing its establishment, such corporation shall, upon submitting the proposals to the Minister, notify in writing the head of the municipality in which the site is situate of the proposals made, and the council of such municipality shall, within one month after receipt of such notice, state in writing to the Minister the objections, if any, that it has to the establishment of a sanatorium on such site, but no such objection necessarily prevents approval being given hereunder. R.S.O. 1950, c. 346, s. 8. <sup>Site in another municipality</sup>

9. The Minister shall submit the proposals, with any report thereon that he sees fit to make, to the Lieutenant Governor in Council, and, upon approval thereof either as <sup>Approval by Order in Council</sup>

submitted or as modified or altered in any way by the Lieutenant Governor in Council, such approval is, subject as hereinafter provided, sufficient authority for the municipal corporation or corporations to establish a sanatorium in accordance therewith. R.S.O. 1950, c. 346, s. 9.

Procedure  
for estab-  
lishment,  
by-laws, etc.

**10.** When by approval of the Lieutenant Governor in Council a municipal corporation is or, jointly, two or more municipal corporations are authorized to establish a sanatorium, the council or councils of such corporation or corporations, as the case may be, may, with the assent of the electors of such municipality or municipalities qualified to vote on money by-laws, pass all by-laws necessary to establish, erect, complete and equip the sanatorium and to issue debentures to pay for the cost thereof and, where, jointly, two or more municipal corporations are establishing the sanatorium, to enter into an agreement respecting it according to form approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 346, s. 10.

County  
sanatorium

**11.** Where the municipal corporation authorized by the approval of the Lieutenant Governor in Council, either alone or jointly with another municipal corporation, to establish a sanatorium is a county, it is not necessary that any by-laws passed by the council of such county, under section 10, be assented to by the electors qualified to vote on money by-laws if such by-laws are passed with the vote of two-thirds of all the members of the county council. R.S.O. 1950, c. 346, s. 11.

R.S.O. 1960,  
c. 249, to  
apply

**12.** Subject as otherwise herein provided, *The Municipal Act* applies to all by-laws passed and to all debentures issued by a municipal corporation under this Act. R.S.O. 1950, c. 346, s. 12.

Improve-  
ments for  
sanatorium

**13.** When it is proposed by a municipal corporation that has or by two or more municipal corporations that, jointly, have established a sanatorium, to make any extensions, additions or structural alterations or improvements to the sanatorium, or to erect any new buildings in connection therewith, the powers and proceedings with respect to such proposals and obtaining approval thereof, and to the passing of by-laws, issue of debentures and entering into of agreements, are the same as for the establishment of a sanatorium. R.S.O. 1950, c. 346, s. 13.

Board of  
manage-  
ment

**14.—(1)** When a municipal corporation has or, jointly, two or more municipal corporations have established a sanatorium, the management and control over it, and its erection, equipment, maintenance, operation, use and affairs generally,

shall be vested in a board which, subject to subsection 2, shall be composed of not less than five trustees to be appointed by by-law of the establishing municipal corporation or, in case of the establishment of a sanatorium, jointly, by two or more municipal corporations, in accordance with the provisions of the agreement entered into respecting the same.

(2) Notwithstanding subsection 1, the Lieutenant Governor in Council may appoint any person to be a member of a board of any sanatorium referred to in subsection 1, and such person shall hold office during pleasure; provided that, where any such board consists of five members at the time of such appointment, the board shall consist of six members until the death, resignation or expiration of the term of office of one of the members other than the member so appointed. R.S.O. 1950, c. 346, s. 14.

Appointment to board by Lieutenant Governor in Council

**15.** The qualifications of the trustees forming the board, Trustees their term of office, which shall not exceed five years, the quorum of their meetings and the manner of appointment of successors and of filling vacancies in the office of trustees shall be provided for in such by-law or agreement, and the trustees appointed shall hold office until their successors are appointed. R.S.O. 1950, c. 346, s. 15.

**16.** The board is a corporation under such name as is Corporate body designated in the approval given by the Lieutenant Governor in Council for its establishment. R.S.O. 1950, c. 346, s. 16.

**17.** The board shall elect yearly one of its members to be Chairman its chairman to hold office for one year, or until his successor is appointed, and a vice-chairman may also be elected similarly. R.S.O. 1950, c. 346, s. 17.

**18.** With the approval of the Lieutenant Governor in Agreements with associations Council, an association that has authority to establish, maintain and operate a sanatorium may enter into an agreement with one or more municipal corporations, including a county or counties, respecting the establishment of such sanatorium or with respect to providing in whole or in part the cost of erecting, equipping, improving, enlarging, extending or altering a sanatorium established by the association, but no by-law of a municipal corporation for the purpose of providing any such cost, by the issue of debentures or otherwise, shall be passed otherwise than in accordance with the provisions of section 10 or 11 in respect to by-laws passed thereunder. R.S.O. 1950, c. 346, s. 18.

## PART III

## ALL SANATORIA

Application  
of Part

**19.** This Part applies to all sanatoria whether established by municipal corporations or associations. R.S.O. 1950, c. 346, s. 19.

Powers of  
board

**20.** Subject as in this Act and the regulations provided or in any agreement entered into under this Act stipulated, it is the duty of the board of a sanatorium and it has the power to govern, manage and control its affairs, and its maintenance, operations and use, and the admission, treatment, conduct, discipline and discharge of patients therein and, for such purposes, the board may pass by-laws, rules and regulations, but no such by-law, rule or regulation has force or effect until it is approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 346, s. 20.

Appoint-  
ment of  
staff

**21.** Subject to the regulations, the board may appoint such superintendents, officers, staffs, employees and servants of a sanatorium as from time to time may be necessary, and fix their salaries and prescribe their powers and duties. R.S.O. 1950, c. 346, s. 21.

Powers of  
expropria-  
tion

R.S.O. 1960,  
c. 249

**22.** With the approval of the Lieutenant Governor in Council, the board may pass by-laws for expropriating any land adjacent to or in the vicinity of a sanatorium that is deemed requisite for or advantageous to its purposes, and in that behalf may exercise the powers of expropriation conferred on a municipality under *The Municipal Act*, the provisions of which relating thereto apply *mutatis mutandis* to and govern the exercise of such powers so far as they are applicable or necessary thereto, and the superintendent in such case shall exercise the powers and perform the duties that under *The Municipal Act* are to be exercised and performed by the clerk of the municipality, but the board of a sanatorium that has been established by a municipal corporation or corporations shall not exercise any such power of expropriation without the consent first obtained of the council or councils of such corporation or corporations. R.S.O. 1950, c. 346, s. 22.

Exemption  
from  
taxation

**23.** The real property acquired and used for the purpose of and in connection with a sanatorium is exempt from all municipal or other taxation, including taxation for school purposes, except and excluding any municipal tax or rate imposed in respect of any public utility supplied to a sanatorium. R.S.O. 1950, c. 346, s. 23.

**24.** No part of any property acquired or used for the purposes of a sanatorium shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Lieutenant Governor in Council. R.S.O. 1950, c. 346, s. 24.

**25.** No part of any property acquired or used for the purposes of a sanatorium shall be expropriated by any corporation or person having powers of expropriation under any Act without the approval of the Lieutenant Governor in Council. R.S.O. 1950, c. 346, s. 25.

**26.** Nothing in sections 24 and 25 applies to or prevents the sale, disposition or expropriation of any part of the property acquired or used for the purposes of a sanatorium if it is required in the widening of any highway and if the Minister has first approved thereof. R.S.O. 1950, c. 346, s. 26.

**27.** The board may accept from any person donations of property, real or personal, by will or otherwise, for the endowment, use or benefit of a sanatorium and, subject to the terms of the donation, may apply the same for such purposes. R.S.O. 1950, c. 346, s. 27.

**28.** No sanatorium that has been approved and established may be closed permanently without the approval of the Lieutenant Governor in Council and, when a sanatorium is closed or proposed to be closed permanently, the Lieutenant Governor in Council may make such provision for the sale or other disposition of the sanatorium and all its properties and assets and for the application of any proceeds of the sale or disposition and otherwise in every respect as he deems proper. R.S.O. 1950, c. 346, s. 28.

**29.** Subject to the provisions of any existing agreement relating thereto, every sanatorium receiving provincial aid shall provide such reasonable facilities for giving instruction to medical students of any university as are required by the regulations. R.S.O. 1950, c. 346, s. 29.

**30.** Except as otherwise provided in this Act or the regulations, no sanatorium receiving provincial aid shall refuse to admit as a patient any person who is in need of treatment. R.S.O. 1950, c. 346, s. 30.

**31.** Except as otherwise provided in this Act or in the agreement, no sanatorium established by an association that has entered into an agreement with a municipal corporation under this Act shall refuse to admit as a patient any indigent person or dependant of an indigent person resident in such

municipality and requiring treatment. R.S.O. 1950, c. 346, s. 31.

Refusal of  
communi-  
cable disease  
cases  
R.S.O. 1960,  
c. 321

**32.** Nothing in this Act requires any sanatorium to admit or retain as a patient any person suffering from a communicable disease that under *The Public Health Act* or regulations made thereunder requires quarantine and placarding. R.S.O. 1950, c. 346, s. 32.

Refusal of  
non-  
residents

**33.** Nothing in this Act, unless by refusal of admission life would thereby be endangered, requires any sanatorium to admit as a patient any person who is not a resident or a dependant of a resident in Ontario. R.S.O. 1950, c. 346, s. 33.

## PART IV

### MUNICIPAL LIABILITY

Notice to  
municipi-  
pality

**34.—(1)** Upon admission to a sanatorium of a patient, the superintendent shall, by registered mail, notify the clerk of the local municipality in which the patient is or is reported to be a resident of such admission, giving such particulars as are available to enable the clerk to identify the patient.

Reply

(2) Within thirty days after the mailing of such notice, the clerk shall, by registered mail, send a reply to the superintendent from whom the notice was received stating whether the patient is a resident of the local municipality and, if the clerk states that the patient is not a resident, he shall furnish the information that he has obtained relating to the residence of the patient.

Failure of  
clerk to  
reply

(3) If the clerk fails or neglects to comply with subsection 2, the patient, for the purposes of this Act, shall be deemed to be a resident of the local municipality for which the clerk is appointed. R.S.O. 1950, c. 346, s. 34.

Superin-  
tendent may  
request in-  
formation

**35.—(1)** When the superintendent requires information regarding the ability of a patient to pay toward his maintenance in a sanatorium, the superintendent may request, by registered mail, such information from the clerk of the local municipality in which the patient was resident at the time of admission to the sanatorium.

Penalty  
for failure  
to reply

(2) Unless the clerk of the local municipality, within thirty days of the mailing to him of any such notice as mentioned in subsection 1, has replied to the superintendent supplying the information referred to in subsection 1, or giving reasons why the information cannot be obtained, the local municipality shall pay to the sanatorium the charges for the treatment of



the patient in the sanatorium at the rate set for provincial aid in the regulations, commencing thirty days after the mailing to the clerk of the notice and continuing until the clerk has complied with this section. R.S.O. 1950, c. 346, s. 35.

**36.**—(1) The local municipality in which an indigent person is living at the time he requires admission to a sanatorium shall pay the costs of transporting him to the sanatorium and if after admission to a sanatorium his residence is determined to be any other local municipality, the local municipality that has paid the costs of his transportation to a sanatorium may recover the expenses so incurred from the local municipality where he was resident at the time of his admission to the sanatorium or, if any such person was not resident in any local municipality, the local municipality that has paid the costs may recover such costs from the Department.  
Cost of transportation to sanatorium

(2) The local municipality in which an indigent patient was resident at the time of his admission to a sanatorium shall pay the costs of his transportation to and from another sanatorium or to and from any public hospital or other public institution if such transfer has been directed by the superintendent of the sanatorium or by an inspector.  
Transportation to another sanatorium

(3) Whenever the transfer of an indigent patient has been directed by the superintendent of a sanatorium or by an inspector to and from any of the places mentioned in subsection 2, the sanatorium may pay the costs of transportation and may recover such costs from the local municipality in which the patient was resident at the time of his admission to a sanatorium. R.S.O. 1950, c. 346, s. 36.  
Recovery by sanatorium

**37.**—(1) The superintendent of a sanatorium shall, and an inspector may, give notice in writing to the local board of any local municipality that a patient who was resident in such municipality at the time of admission to the sanatorium has recovered to such an extent that he may receive care or treatment outside the sanatorium.  
Notice that patient recovered

(2) Upon receiving such notice, the local board shall furnish to or for a patient who is indigent the expenses of post-sanatorium care or such part thereof as he is unable to furnish himself.  
Responsibility of local board

(3) In the event that the local board fails or neglects to comply with subsection 2 within thirty days after such notice has been sent to the local board, the local municipality in which the local board has jurisdiction shall pay to the sanatorium the charges for the treatment of such patient in the sanatorium at the rate set for provincial aid in the regulations.  
Failure of local board to comply with provisions of subs. 2

commencing thirty days after the notice has been sent to the local board.

Return of  
patient to  
sanatorium

(4) In the event that the local board fails or neglects to comply with subsection 2, the Minister may direct that the patient be returned to a sanatorium, and the local municipality in which the patient was resident at the time of his last admission to a sanatorium shall pay the charges for his transportation together with the charges for his treatment at the rate set for provincial aid in the regulations.

Where  
patient  
proceeds  
to other  
municipi-  
pality

(5) If a patient at any time after his discharge from a sanatorium goes to a local municipality other than that in which he was resident at the time of his admission to a sanatorium, the first-named local municipality shall provide for the patient the things mentioned in subsection 2 if the patient is indigent but may recover any expenses so incurred from the local municipality in which the patient was resident at the time of his admission to a sanatorium.

Recovery  
from  
county

(6) If a local municipality is part of a county for municipal purposes, such local municipality is entitled to recover from the county one-half of any money expended by the local board under subsection 2 or 5. R.S.O. 1950, c. 346, s. 37.

Provincial  
contribution

(7) The Minister of Public Welfare may reimburse a local municipality for any money expended by its local board under subsection 2 or 5 in such amounts and under such conditions as are prescribed in the regulations under *The General Welfare Assistance Act*. 1958, c. 96, s. 1, amended.

R.S.O. 1960,  
c. 164

Burial  
expenses, by  
local municipi-  
pality

**38.—**(1) In the event of the death in a sanatorium of a patient who is an indigent person, the local municipality in which he was resident at the time of admission shall pay to the sanatorium any expenses of burial that it may incur, not less than,

- (a) \$125 for the burial;
- (b) the actual cost of opening and closing the grave; and
- (c) a fee of \$10 for a religious service performed in connection with the burial. 1952, c. 94, s. 1, *part*; 1958, c. 96, s. 2.

by Minister

(2) Where the deceased person referred to in subsection 1 was not resident in a local municipality, the Minister may pay the burial expenses in accordance with subsection 1. 1952, c. 94, s. 1, *part*.

Statements  
of account  
to be  
rendered

**39.—**(1) When under this Act the burial expenses of a deceased patient are payable by a local municipality, the sanatorium to which he was admitted shall render to the clerk

of the local municipality a statement of account of any such expenses with full particulars thereof and if the amount of any such account is not paid within a reasonable time after the same has been rendered it may be recovered as a debt in any court of competent jurisdiction.

(2) Upon payment by a local municipality of any expenses of burial of a deceased patient, the local municipality may recover one-half of such expenses from the county if the local municipality is part of the county for municipal purposes. Right of recovery  
R.S.O. 1950, c. 346, s. 39.

**40.** Upon payment by a local municipality or a county of any expenses of burial of a deceased patient, such local municipality or county may recover from his estate or personal representatives, or, in the case of a dependant, from any person liable in law in respect of such dependant, the amount of the payment so made, and it may be recovered as a debt in any court of competent jurisdiction. Municipal recourse against estate of patient  
R.S.O. 1950, c. 346, s. 40.

**41.** Upon payment by a local municipality or a county of any expenses of burial of a deceased patient by reason of him having been assumed to be resident in such local municipality and it being ascertained that he was not resident therein, but at the time of admission to the sanatorium was a resident in another local municipality in Ontario, the local municipality or county that made the payment may recover the amount thereof as a debt from the local municipality in which he was resident and, upon payment by that local municipality, it is entitled to exercise the rights of recovery conferred by section 40. Municipal recourse against proper municipality  
R.S.O. 1950, c. 346, s. 41.

**42.** For the purpose of this Act, no patient shall be deemed to be resident in a local municipality, Cases where residence not presumed

- (a) by reason of having gone to the municipality for the purpose of seeking medical advice or treatment or seeking admission or treatment in a sanatorium in such municipality, but in such cases he shall for the purpose of this Act be deemed to be resident in that municipality in which he was resident at the time of going to the first-named municipality for the purpose of seeking such advice, treatment or admission; or
- (b) if the municipality is in a territorial district, and he having or suspected of having tuberculous disease has gone to such municipality principally for the purpose of health and within one year after going to such municipality is admitted as a patient in a sanatorium,

but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time of going to a municipality in a territorial district; or

- (c) if he has been living in the municipality by reason of being a pupil in a school, college, university, training school for nurses established under *The Nursing Act* or other seminary of learning therein and at the time he became such a pupil was not resident therein, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time he became such a pupil; or
- (d) by reason of having been a patient or an inmate of a hospital, sanatorium, home for the aged, orphanage, children's shelter or child welfare institution, jail, reformatory, prison or other public institution in the municipality and otherwise was not resident therein, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time he became such a patient or inmate; or
- (e) if he has been living in the municipality by reason of being engaged on active service as a member of the military, naval or air force of Canada, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time of enlistment for such service. R.S.O. 1950, c. 346, s. 42; 1952, c. 94, s. 2.

R.S.O. 1960,  
c. 265

Residence  
of former  
patients

**43.** Where a former patient after his discharge from a sanatorium,

- (a) goes to a local municipality other than the local municipality in which he was resident at the date of his admission to the sanatorium;
- (b) receives post-sanatorium care under section 37 or otherwise under the Act while living in the first-mentioned municipality; and
- (c) is not otherwise resident in the first-mentioned local municipality,

he shall not, for the purposes of this Act, be deemed to be resident in the local municipality in which he has been living since his discharge from the sanatorium but shall be deemed resident in the local municipality in which he was resident at the date of his first admission to a sanatorium. R.S.O. 1950, c. 346, s. 43.

## PART V

## PROVINCIAL AID

**44.** The Minister may, out of the moneys that are <sup>Provincial aid</sup> appropriated by the Legislature for the purpose,

- (a) pay provincial aid to any sanatorium; and
- (b) make payments for the treatment outside a sanatorium of any person suffering from tuberculosis and for the post-sanatorium care of any former patient,

in such amounts, in such manner and at such times as are prescribed by the regulations. R.S.O. 1950, c. 346, s. 44.

## PART VI

## GENERAL

**45.**—(1) A medical officer of health may, with the ap- <sup>Medical officer may require examination</sup> proval of an inspector, require any person who is resident in the municipality or district for which he is medical officer of health and who is suspected by him to be suffering from tuberculosis or who has been in contact with any person suffering from tuberculosis or who has been a patient in a sanatorium, to submit to such examination for tuberculosis as he directs. R.S.O. 1950, c. 346, s. 45 (1); 1951, c. 81, s. 1.

(2) In requiring a person to submit to an examination <sup>Notice</sup> under this section, the medical officer of health shall serve such person or, in the case of an infant, the parent or guardian of the infant, with a notice in writing signed by him and by an inspector, specifying the nature, time and place of the examination. R.S.O. 1950, c. 346, s. 45 (2).

(3) Any person served with a notice who fails to carry out <sup>Offence</sup> an order or direction contained therein is guilty of an offence and on summary conviction may be committed to a sanatorium for a period of not more than fourteen days to receive the examination considered necessary by the superintendent of the sanatorium to determine if the person is suffering from tuberculosis in an infectious state. 1956, c. 79, s. 1.

(4) Any expenses incurred by a medical officer of health <sup>Expenses</sup> under this section shall be paid by the local municipality for which he is appointed and, in the case of a medical officer of health appointed to act in unorganized territory, such expenses shall be paid by the Department. R.S.O. 1950, c. 346, s. 45 (4).

**46.**—(1) Any medical officer of health or duly qualified <sup>Information</sup> medical practitioner may, with the approval in writing of the

Minister, make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clauses *a*, *b* and *c* of subsection 5 exist with regard to any person named in the information.

Issue of  
summons

(2) Upon receiving any such information, the justice of the peace shall hear and consider the allegations of the informant and, if he considers it desirable or necessary, the evidence of any witness or witnesses, and, if he is of the opinion that a case for so doing is made out, he shall issue a summons directed to the person complained of, requiring him to appear before a magistrate at a time and place named therein.

Issue of  
warrant

(3) Where a person to whom a summons is directed does not appear at the time and place named therein or where it appears that a summons cannot be served, a magistrate may issue a warrant directing that the person named in the summons be brought before him.

Magistrate's  
inquiry

(4) Where a person appears or is brought before a magistrate under this section, the magistrate shall inquire into the truth of the matters charged in the information, and for such purpose shall proceed in the manner prescribed by *The Summary Convictions Act* and has all the powers of a magistrate holding a hearing under that Act.

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c. 387

Order for  
detention

(5) Where a magistrate finds that any such person,

- (a) is suffering from pulmonary tuberculosis in an infectious state;
- (b) is unwilling or unable to conduct himself in such a manner as not to expose members of his family or other persons to danger of infection; and
- (c) refuses to be admitted or to remain in a sanatorium or has left a sanatorium against the advice of the superintendent thereof,

he shall order that such person be admitted to and detained in a sanatorium or in such other place as is set aside with the approval of the Minister for the care of tuberculous persons for such period not exceeding one year as the magistrate deems necessary. R.S.O. 1950, c. 346, s. 46 (1-5).

Fees of  
medical  
practitioner  
retained

(6) Any person who appears or is summoned to appear before a magistrate under this section may retain a duly qualified medical practitioner to give evidence on his behalf, and the fees of the medical practitioner shall be deemed to be part of the expenses of the proceedings and payable as provided by subsection 3 of section 51. 1956, c. 79, s. 2.

(7) In any inquiry under this section, upon production of a certificate signed or purporting to be signed by the director of a laboratory approved by the Minister as to the presence of tubercle bacilli in the sputum of any person, such certificate is *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature. Laboratory certificate

(8) Any person detained pending a hearing under this section or pending his removal to a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons shall be detained in a sanatorium or such other safe and comfortable place as a justice of the peace or magistrate directs. Detention pending inquiry or removal

(9) The Minister may direct the transfer of a person detained under this section to any sanatorium, hospital or any other place when he deems such transfer is necessary for the welfare of the patient. Transfer of patients

(10) Any person detained under this section may, with the approval in writing of the Minister, be brought before a magistrate at any time during the last thirty days of the period for which he is so detained, and, if the magistrate finds that he is still suffering from pulmonary tuberculosis in an infectious state, the magistrate may order that he be further detained in a sanatorium or such other place as is set aside with the approval of the Minister for the care of tuberculous persons for such period not exceeding one year as the magistrate deems necessary. R.S.O. 1950, c. 346, s. 46 (6-9). Extension of detention

**47.—**(1) Where a physician having medical charge of a jail, lock-up, reformatory, industrial farm, training school, or industrial, female or other refuge, suspects that a person under his charge is suffering from tuberculosis, he may or, if directed by the proper medical officer of health, he shall cause the person to undergo the necessary examination to ascertain if the person has tuberculosis or to ascertain the extent of the disease, and, if the examination discloses that the person has tuberculosis, the physician shall report the facts to the proper medical officer of health who may proceed as provided by section 49. Examination by physician in charge

(2) Where an examination has not been made under this section, every physician having medical charge of a jail, lock-up, reformatory, industrial farm, training school, or industrial, female or other refuge, shall report immediately to the medical officer of health the name and place of confinement of every person under his charge whom he suspects is suffering from tuberculosis. Duty of physician in charge

Duplicate  
report

(3) A copy of every report under this section shall be sent by the physician making the report to the Minister and to the proper medical officer of health for the municipality in which the person formerly resided before admission to an institution mentioned in this section. 1956, c. 79, s. 3, *part.*

Examination  
of person  
under arrest  
or in  
custody

**48.** Where a medical officer of health believes that a person under arrest or in custody, whether awaiting trial for an offence under or contravention of any statute of Canada or of Ontario or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction or any such offence or contravention, has been or may be suffering from tuberculosis, he may cause the person to undergo the examination necessary to ascertain if the person is suffering from tuberculosis or to ascertain the extent of the disease, and may direct that the person be transferred to and detained in a sanatorium until the result of the examination is known. 1956, c. 79, s. 3, *part.*

Treatment

**49.** Where a person under arrest or in custody, whether awaiting trial for an offence under or contravention of any statute of Canada or of Ontario or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, is found to have tuberculosis, the medical officer of health of the municipality where the person is in custody, or the Minister, may by order in writing direct that the person be transferred to a sanatorium and undergo treatment therein and that he be detained in custody in the sanatorium until the tuberculosis is no longer infectious or until he has received a degree of treatment considered adequate by the medical superintendent and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section is sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. 1956, c. 79, s. 3, *part.*

Procedure  
for segre-  
gation of  
recalcitrant  
patients

**50.** Any patient in a sanatorium who is unwilling or unable to conduct himself in such a manner as not to expose other patients or other persons to danger of infection or whose conduct is detrimental to the recovery of other patients may, upon the complaint of the superintendent or a duly qualified medical practitioner on the staff of the sanatorium who is designated by him, be apprehended by any peace officer and brought before a magistrate who may, if he finds any such condition to exist, order that the patient be segregated from the other patients in a separate part of the sanatorium or any other place and there detained for a period of not more than six months. 1959, c. 91, s. 1.



**51.**—(1) The superintendent, every member of the medical staff and every nurse and attendant employed in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons and every medical officer of health and peace officer has authority to, Authority to apprehend, etc.

- (a) execute any warrant and enforce any order of a magistrate issued or made under section 46 or 50;
- (b) bring any person before a magistrate under subsection 10 of section 46 or section 50; and
- (c) apprehend any person who has left a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous patients in contravention of any order made under section 46, 47, 48, 49 or 50. R.S.O. 1950, c. 346, s. 48 (1); 1956, c. 79, s. 4.

(2) Where the Minister is of the opinion that a person detained under section 46 or 50 in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons is no longer suffering from pulmonary tuberculosis in an infectious state, he may direct the discharge of such person. Discharge by Minister

(3) The expenses of all proceedings taken under section 46 or 50 shall be paid out of such moneys as are appropriated for the purposes of this Act by the Legislature. R.S.O. 1950, c. 346, s. 48 (2, 3). Expenses of proceedings

**52.** The superintendent of a sanatorium has authority to direct the transfer of any patient in the sanatorium to a hospital under *The Public Hospitals Act* for the purpose of having performed upon such patient any surgical operation for any condition other than tuberculosis, and in any such case the charges for the treatment in the public hospital of any such patient who is indigent shall be paid for in the same manner as charges for indigent patients are paid under *The Public Hospitals Act*. R.S.O. 1950, c. 346, s. 49. Transfer to a public hospital  
R.S.O. 1960, c. 322

**53.** Any action against a sanatorium or any nurse or person employed therein for damages for injury caused by negligence in the admission, care, treatment or discharge of a patient shall be brought within six months after the patient is discharged from or ceases to receive treatment at the sanatorium and not afterwards. R.S.O. 1950, c. 346, s. 50. Limitation of action

**54.**—(1) The Lieutenant Governor in Council may make such regulations with respect to sanatoria as are deemed necessary for, Regulations for sanatoria

- (a) their creation, establishment, construction, alteration, equipment, maintenance and repair;
- (b) their classification, grades and standards;
- (c) their inspection, control, government, management, conduct, operation and use, including the appointment of one member of the board;
- (d) their inspectors, superintendents, staffs, officers, servants and employees and the powers and duties thereof;
- (e) the admission, treatment, conduct and discharge of patients;
- (f) prescribing the forms relating to patients and their admission to, maintenance in, transfer, release and discharge from sanatoria, and all other forms required for carrying out this Act and the regulations;
- (g) the classification, length of stay, rates and charges of and for patients;
- (h) the records, books, accounting system, reports and returns to be made and kept by sanatoria;
- (i) the distribution, payment, withholding and restoration of and other matters affecting provincial aid;
- (j) all matters affecting sanatoria,

and may make regulations providing payment for the treatment outside sanatoria of persons suffering from tuberculosis and the post-sanatorium care of former patients.

Enforce-  
ment of  
regulations

(2) The Minister may from time to time declare all or any of the regulations not to be in force with respect to all sanatoria or any specified sanatorium or sanatoria for such time or times as he deems expedient. R.S.O. 1950, c. 346, s. 51.

Offence

**55.** Any person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$500. R.S.O. 1950, c. 346, s. 52.

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## CHAPTER 360

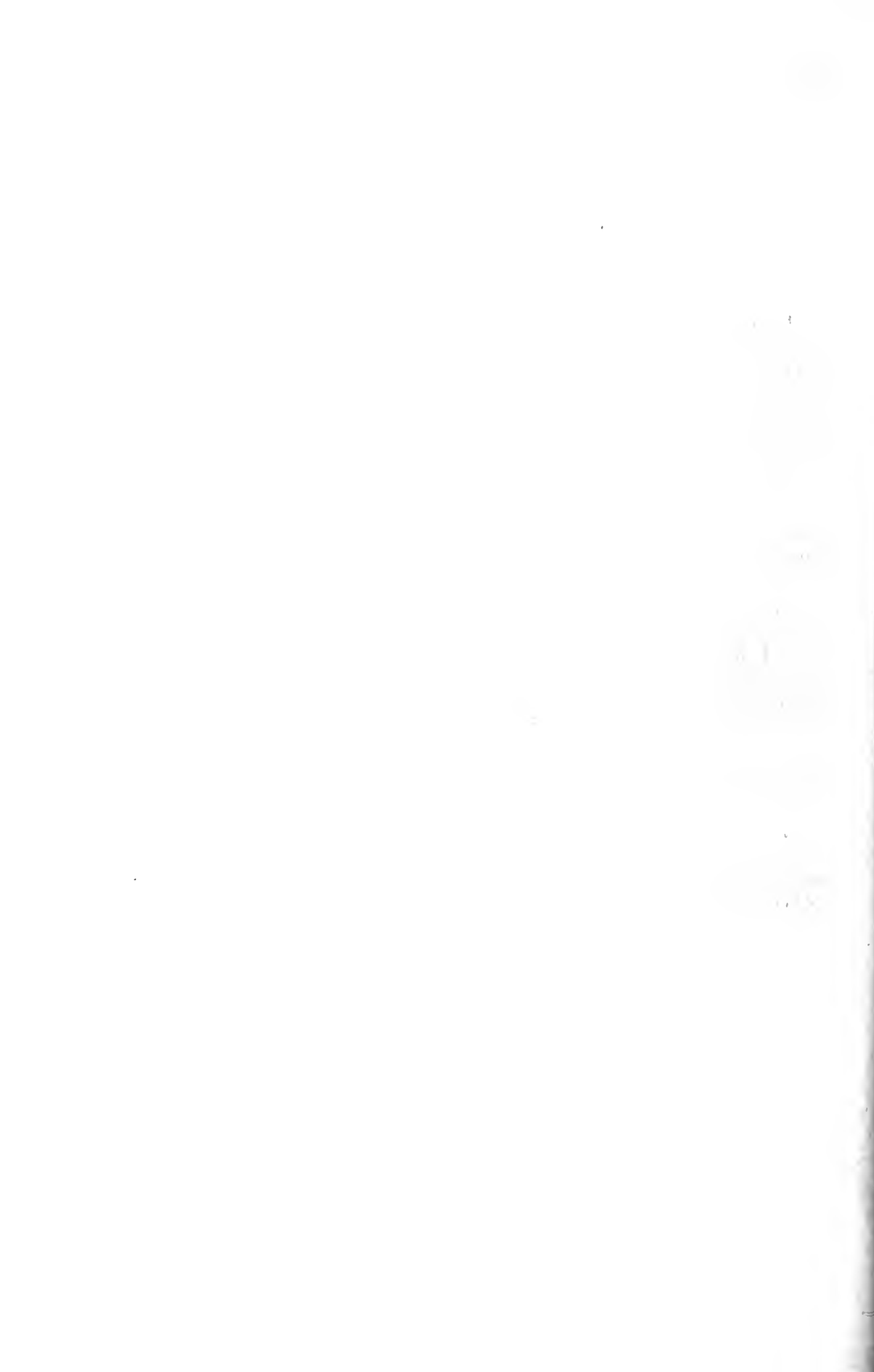
## The School Trust Conveyances Act

**1.** Where persons, residing in Ontario, interested in any school established in any city, town, village or township therein whether as parents of children frequenting such schools or as contributors to the same, or both, have occasion or are desirous to take a conveyance of real property for the use of such schools, such persons may elect from among themselves, and appoint not less than five and not more than seven trustees, to whom and to whose successors, to be appointed in the manner specified in the deed of conveyance, the real property requisite for the school may be conveyed. R.S.O. 1950, c. 349, s. 1.

**2.**—(1) The trustees so appointed and their successors in perpetual succession, by the name expressed in the deed, may take, hold and possess the real property so conveyed, and bring and maintain any action for the protection thereof, and of their right thereto, but there shall not be so held in trust more than ten acres of land at any time for any one school.

(2) This section does not extend to public schools. R.S.O. 1950, c. 349, s. 2.

**3.** The trustees shall, within twelve months after the execution of any such deed, cause the deed to be registered in the registry office of the registry division in which the land lies. R.S.O. 1950, c. 349, s. 3.



## CHAPTER 361

## The Schools Administration Act

## INTERPRETATION

1.—(1) In this Act, “board”, except in Parts VI and VII, <sup>Interpre-</sup> means a public school board, separate school board, continua-<sup>tation, in</sup> tion school board, high school board or board of education. <sup>this Act</sup>  
1954, c. 86, s. 1, cl. (a).

(2) In this Act and in *The Department of Education Act*, <sup>in school</sup> and the regulations thereunder, *The Public Schools Act*, <sup>Acts</sup> *The Separate Schools Act* and *The Secondary Schools and Boards of* <sup>R.S.O. 1960,</sup> *Education Act*, unless otherwise provided in the Act or regu- <sup>cc. 94, 330,</sup> <sup>368, 362</sup> lations, 1960, c. 107, s. 1, *part.*

1. “adjoining” means touching at any point; 1954, c. 87, s. 1 (1), cl. (a).
2. “capital fund” means a fund acquired from the proceeds of the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture; 1960, c. 107, s. 1, *part.*
3. “continuation school district” means the property liable to assessment and taxation for the purposes of a continuation school; 1954, c. 87, s. 1 (1), cl. (b).
4. “cost of operation” means the total of the current expenditure and debt charges paid in the year by a board or on its behalf; 1960, c. 107, s. 1, *part.*
5. “county judge” or “judge” means the judge of the county or district court of the county or district in which a secondary school district is situated, and where the secondary school district is situated in two or more counties or districts, the judge of the county or district court of the county or district having the largest population within the secondary school district; 1954, c. 87, s. 1 (1), cl. (c), *amended*.
6. “current expenditure” means an expenditure for maintenance or a permanent improvement from funds other than those arising from the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;

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c. 23

7. "current revenue" means all amounts earned by the board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;
8. "debt charge" means the amount of money necessary annually to pay the interest on all debt, the principal of long-term debt not payable from a sinking fund, and to provide a fund for the redemption of debentures payable from a sinking fund; 1960, c. 107, s. 1, *part*.
9. "Department" means the Department of Education; 1954, c. 86, s. 1, cl. (b); 1954, c. 87, s. 1, cl. (d).
10. "elementary school" means a public or separate school; 1954, c. 86, s. 1, cl. (c).
11. "equalized assessment" means the total assessment of real property and business assessment of a municipality as equalized by the county council under *The Assessment Act*; 1955, c. 76, s. 1.
12. "guardian" means a person who has been appointed by order of a court as the legal guardian of a child in place of a parent; 1960, c. 107, s. 1, *part*.
13. "high school" includes a collegiate institute; 1954, c. 86, s. 1, cl. (d); 1954, c. 87, s. 1 (1), cl. (f).
14. "high school district" means the area in which a high school board has jurisdiction; 1954, c. 87 (1), cl. (g).
15. "inspector" means a school inspector;
16. "inspectorate" means the territory for which an inspector is appointed; R.S.O. 1950, c. 316, s. 1, cls. (e, f).
17. "itinerant teacher" means a teacher employed on a part-time basis by one board or more to teach one subject and who is normally required to travel from one school to another in the performance of his duties; 1958, c. 97, s. 1.
18. "maintenance expenditure" means a current expenditure, not including an expenditure for a permanent improvement or a debt charge; 1960, c. 107, s. 1, *part*.
19. "Minister" means the Minister of Education; R.S.O. 1950, c. 316, s. 1, cl. (g); 1954, c. 86, s. 1, cl. (e); 1954, c. 87, s. 1 (1), cl. (i).
20. "municipal inspector" means a person who is qualified and is employed with the approval of the Min-

ister by a school board to inspect schools in a municipal inspectorate;

21. "municipal inspectorate" means an inspectorate for which a school board employs the inspectors; 1960, c. 107, s. 1, *part*.
22. "municipality" means a city, town, village or township, but does not include a county; 1954, c. 86, s. 1, cl. (f); 1954, c. 87, s. 1 (1), cl. (j).
23. "occasional teacher" means a teacher employed to teach on a daily basis as a substitute for a permanent, probationary or temporary teacher; 1953, c. 90, s. 1, *part*; 1954, c. 86, s. 1, cl. (g).
24. "perfect aggregate attendance" of pupils for a calendar year is the number calculated by multiplying the number representing the number of teaching days in the calendar year by the number representing the number of pupils registered at the school during the calendar year and deducting therefrom the number representing the number of pupil-days' non-attendance caused by,
  - i. deaths,
  - ii. late registrations owing to transfer or age of pupils,
  - iii. termination of registrations owing to transfer or age of pupils,
  - iv. expulsion, and
  - v. exclusions; 1954, c. 87, s. 1 (1), cl. (k).
25. "permanent improvement" includes,
  - i. the acquisition of a school site and an addition or an improvement to a school site,
  - ii. the acquisition or erection of a building used for instructional purposes and any addition, alteration or improvement thereto;
  - iii. the acquisition or erection of an administration office, a residence for teachers or caretakers and a storage building for equipment and supplies, and any addition, alteration or improvement thereto;
  - iv. the acquisition of furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property,

- v. the acquisition of a bus, or other vehicle, used for the transportation of pupils,
  - vi. the obtaining of a water supply on the school property or conveyed from outside the school property,
  - vii. initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board; 1957, c. 101, s. 1, *amended*; 1960, c. 107, s. 1, *part*.
26. "permanent teacher" means a teacher employed on a continuing basis, but does not include a temporary teacher or an occasional teacher; 1953, c. 90, s. 1, *part*; 1954, c. 86, s. 1, cl. (*h*).
27. "prescribed" means prescribed by the regulations; 1954, c. 86, s. 1, cl. (*i*).
28. "probationary teacher" means a teacher employed for a probationary period,
- i. of not more than two years for a teacher with less than three years experience before the commencement of the contract, or
  - ii. of not more than one year for a teacher with three or more years experience before the commencement of the contract,
- leading to an appointment as a permanent teacher if his services are satisfactory to the board, but does not include a temporary teacher or an occasional teacher; 1953, c. 90, s. 1; 1954, c. 86, s. 1, cl. (*j*).
29. "provincial inspector" means a person who is employed by the Province as a school inspector responsible to the Minister; 1960, c. 107, s. 1, *part*.
30. "regulations" means the regulations made under *The Department of Education Act*; R.S.O. 1950, c. 316, s. 1, cl. (*i*); 1954, c. 86, s. 1, cl. (*k*); 1954, c. 87, s. 1 (1), cl. (*m*).
31. "reserve fund" means a reserve fund established under section 298 of *The Municipal Act* or paragraph 16 of section 35 of this Act;
32. "rural school section" means a school section in territory without municipal organization or in one or more townships;
33. "school section" means a locality for which a public school board or board of education has been or is to

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be established and that comprises part or all of one or more townships or of one or more urban municipalities or of territory without municipal organization or any combination of such areas; R.S.O. 1950, c. 316, s. 1, cl. (j), *amended*; 1960, c. 107, s. 1, *part*.

34. "school site" means the land necessary for a school-house, school playground, school garden, teacher's residence, caretaker's residence, drill hall, gymnasium, offices, parking areas and other land required for school purposes or for the offices of a board; 1958, c. 88, s. 1; 1958, c. 97, s. 7.
35. "secondary school" means a continuation, high or vocational school; 1954, c. 86, s. 1, cl. (l); 1954, c. 87, s. 1 (1), cl. (n).
36. "secondary school district" means a continuation or high school district; 1954, c. 86, s. 1, cl. (m); 1954, c. 87, s. 1 (1), cl. (o).
37. "secretary" and "treasurer" include a secretary-treasurer; R.S.O. 1950, c. 316, s. 1, cl. (l); 1954, c. 86, s. 1, cl. (n); 1954, c. 87, s. 1 (1), cl. (p).
38. "separated town" means a town separated for municipal purposes from the county in which it is situated; R.S.O. 1950, c. 316, s. 1, cl. (p), *amended*; 1954, c. 87, s. 1 (1), cl. (q).
39. "teacher" means a person holding a legal certificate of qualification; R.S.O. 1950, c. 316, s. 1, cl. (n).
40. "temporary teacher" means a teacher employed to teach on a monthly basis for a period not exceeding one year; 1954, c. 86, s. 1, cl. (o).
41. "township" includes union of townships; R.S.O. 1950, c. 316, s. 1, cl. (o).
42. "urban municipality" means a city, town or village. R.S.O. 1950, c. 316, s. 1, cl. (q); 1954, c. 86, s. 1, cl. (p); 1954, c. 87, s. 1 (1), cl. (r).

## PART I

### SCHOOL TERMS AND COMPULSORY ATTENDANCE

2. In this Part, "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home another person's child who is of compulsory school age and is resident with him or in his care or legal custody. 1954, c. 86, s. 2.

<sup>Interpre-</sup>  
<sup>tation</sup>

School year      **3.**—(1) The school year for elementary and secondary schools consists of two terms.

First term      (2) The first term begins on the day next following Labour Day and ends on the 22nd day of December, but when the 22nd day of December is a Monday, the first term ends on the 19th day of December.

Second term      (3) The second term begins on the 3rd day of January and ends on the 29th day of June, but when the 3rd day of January is a Friday, the second term begins on the 6th day of January, and when the 29th day of June is a Monday, the second term ends on the 26th day of June. 1954, c. 86, s. 3.

School  
holidays

**4.** The following are school holidays:

1. Every Saturday and Sunday.
2. Good Friday.
3. The week next following Good Friday.
4. Victoria Day.
5. The birthday or the day fixed by proclamation of the Governor General or the Lieutenant Governor for the celebration of the birthday of the reigning Sovereign.
6. Dominion Day.
7. Labour Day.
8. Any day appointed by proclamation of the Governor General or the Lieutenant Governor as a public holiday or for a general fast or thanksgiving.
9. Remembrance Day.
10. Every day proclaimed a holiday by the authorities of the municipality in which the school is situated.
11. Every day upon which the school is closed under *The Public Health Act* or under *The Department of Education Act* or the regulations. 1954, c. 86, s. 4.

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cc. 321, 94

Rural  
areas

**5.**—(1) With the approval of the inspector, a rural elementary school board may substitute holidays in some other part of the year for part of the time allowed for Easter and summer holidays to suit the convenience of pupils and teachers, but the same number of holidays shall be allowed in each year.

School  
terms in  
districts

(2) In a territorial district, the inspector, subject to an appeal to the Minister, may determine the length of time, which shall not be less than six months, during which an elementary school shall be kept open in each year, and the

board of the school concerned shall keep the school open during the whole of the time so determined. 1954, c. 86, s. 5.

**6.—(1)** Unless excused under this section,

Compulsory  
attendance

- (a) every child who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in that year until the last school day in June in the year in which he attains the age of sixteen years; and
- (b) every child who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years.

(2) A child is excused from attendance at school,

When  
attendance  
excused

- (a) if, in the opinion of the Minister, he is receiving satisfactory instruction at home or elsewhere;
- (b) if he is unable to attend school by reason of sickness or other unavoidable cause;
- (c) if, in the case of a child who has attained the age of fourteen years, his parent or guardian resides on and operates a farm and the child's services are required in the farm household or on the farm;
- (d) if he is employed under the authority of a home permit or an employment certificate;
- (e) if transportation is not provided by a board for the child and there is no school that he has a right to attend situated,
  - (i) within one mile from his residence measured by the nearest highway if he has not attained the age of seven years on or before the first school day in September in the year in question, or
  - (ii) within two miles from his residence measured by the nearest highway if he has attained the age of seven years but not the age of ten years on or before the first school day in September in the year in question, or

- (iii) within three miles from his residence measured by the nearest highway if he has attained the age of ten years on or before the first school day in September in the year in question;
- (f) if he has obtained a secondary school graduation diploma or has completed a course that gives him equivalent standing;
- (g) if he is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;
- (h) if he is excluded from attendance at school under any Act or under the regulations;
- (i) if he is absent on a day regarded as a holy day by the church or religious denomination to which he belongs;
- (j) if he is absent temporarily as authorized under the regulations.

Blind or  
deaf  
children

(3) The fact that a child is blind or deaf is not an unavoidable cause under clause *b* of subsection 2 if the child is eligible for admission to The Ontario School for the Blind or The Ontario School for the Deaf.

Child under  
compulsory  
age

(4) Where a child under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the school term for which the child is enrolled as if he were of compulsory school age.

Duty of  
parent,  
etc.

(5) The parent or guardian of a child who is required to attend school under this section shall cause the child to attend school as required by this section.

Separate  
school  
supporters

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or requires the child of a public school supporter to attend a Roman Catholic separate school. 1954, c. 86, s. 6.

Provincial  
school  
attendance  
officer

7.—(1) The Lieutenant Governor in Council may appoint an officer, to be known as the provincial school attendance officer, who shall, under the direction of the Minister and subject to the regulations, superintend and direct the enforcement of compulsory school attendance.

Inquiry, by  
Minister

(2) Where a child or his parent or guardian considers that the child is excused from attendance at school under clause *a* of subsection 2 of section 6, the Minister may inquire as to the instruction being given to the child and as to the general educational proficiency of the child and the other circum-

stances of the case, and may by order in writing signed by him determine whether or not the child is receiving satisfactory instruction and, if he deems that the child is not receiving satisfactory instruction, he may by his order direct that the child shall attend school.

(3) Where a child or his parent or guardian considers that the child is excused from attendance at school under any one of clauses *b* to *j* of subsection 2 of section 6, the provincial school attendance officer may inquire as to the reason or excuse for non-attendance, and as to the general educational proficiency of the child and the other circumstances of the case, and may by order in writing signed by him determine whether or not the child is excused under the clause and, if he deems that there is no valid reason why the child should not attend school, he may by his order direct that the child shall attend school.

(4) The provincial school attendance officer has all the powers of a school attendance officer and may exercise such powers anywhere in Ontario. 1954, c. 86, s. 7.

8.—(1) Every elementary school board in an urban municipality and every board of education and high school board shall appoint one or more school attendance officers.

(2) The council of every township shall appoint one or more school attendance officers, except where all the children in the township are subject to the jurisdiction of one or more school attendance officers appointed by one or more school boards.

(3) If an elementary school board in a township employs five or more teachers, the board may appoint one or more school attendance officers.

(4) Every elementary and secondary school board in territory without municipal organization shall appoint one or more school attendance officers.

(5) Two or more boards or councils may appoint the same attendance officer or officers.

(6) Where the office of a school attendance officer becomes vacant, it shall be filled by the appointing body forthwith.

(7) Notice of the appointment of a school attendance officer by a school board shall be given in writing by the board to the provincial school attendance officer and to the elementary school inspector or inspectors concerned and, if the board has jurisdiction in a township, to the council of the township.

Idem

(8) Notice of the appointment of a school attendance officer by the council of a township shall be given in writing by the council to the provincial school attendance officer, to each elementary school board in the township, and to the elementary school inspectors concerned. 1954, c. 86, s. 8.

Jurisdiction  
and respon-  
sibility of  
officers  
appointed,  
by township  
council

**9.**—(1) A school attendance officer appointed by the council of a township has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age in the township, except children who are subject to the jurisdiction of a school attendance officer appointed by a school board.

by public  
school  
board

(2) A school attendance officer appointed by a public school board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age in the area in which the board that appointed him has jurisdiction, except children who are subject to the jurisdiction of a school attendance officer appointed by a high or separate school board.

by separate  
school  
board

(3) A school attendance officer appointed by a separate school board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age whose parents or guardians are supporters of a school operated by the board, except children who are subject to the jurisdiction of a school attendance officer appointed by a high school board.

by high  
school  
board

(4) A school attendance officer appointed by a high school board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age who are resident pupils of the high school district and are or have been enrolled in a secondary school.

by board of  
education

(5) A school attendance officer appointed by a board of education has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age in the area in which the board has jurisdiction, except children who are subject to the jurisdiction of a school attendance officer appointed by a separate school board. 1954, c. 86, s. 9.

Powers of  
officers

**10.**—(1) A school attendance officer may,

- (a) enter without warrant any place where children may be employed or congregated;
- (b) at the request of the parent or guardian apprehend and deliver to the school from which he is absent

or to his parent or guardian, without warrant, any child found illegally absent from school.

(2) A school attendance officer shall report monthly to the <sup>Reports</sup> body that appointed him, and annually to the provincial school attendance officer, on the prescribed forms.

(3) A school attendance officer shall perform his duties <sup>To act under</sup> under the direction of the inspector or inspectors concerned, <sup>inspector</sup> and shall carry out the instructions and directions of the provincial <sup>and</sup> school attendance officer <sup>provincial</sup> officer.

(4) A school attendance officer shall inquire into every <sup>Inquiry</sup> case of failure to attend school within his knowledge or when <sup>by officer</sup> requested so to do by the inspector or principal of a school or <sup>and notice</sup> a ratepayer, and shall give written warning of the consequences of such failure to the parent or guardian of a child who is not attending school as required, and shall also give written notice to the parent or guardian to cause the child to attend school forthwith. 1954, c. 86, s. 10.

**11.** A board may make a complete census of all children <sup>Census</sup> in the area in which the board has jurisdiction who have not attained the age of twenty-one years. 1954, c. 86, s. 11.

**12.—(1)** The principal of every elementary or secondary <sup>Reports</sup> school shall, <sup>and</sup> <sup>information</sup>

(a) report in accordance with the regulations to the proper school attendance officer, and in the case of an elementary school also to the inspector concerned, the names, ages and residences of all pupils of compulsory school age who have not attended school as required;

(b) furnish the school attendance officer with such other information as the officer requires for the enforcement of compulsory school attendance;

(c) report to the school attendance officer every case of suspension or expulsion.

(2) Where a child of compulsory school age has not attended <sup>Where no</sup> school as required and there is no school attendance officer <sup>school</sup> having jurisdiction in respect of the child, the inspector concerned shall notify the parent or guardian of the child of the requirements of section 6. 1954, c. 86, s. 12. <sup>attendance</sup> <sup>officer</sup>

**13.—(1)** Where, in the opinion of the school attendance <sup>Home</sup> officer, the services of a child under fourteen years of age are <sup>permits</sup> required, <sup>and employ-</sup> <sup>ment certifi-</sup> <sup>cates, under</sup>

- (a) in farm work on a farm operated by his parent or guardian;
- (b) in some occupation in or about the home of his parent or guardian; or
- (c) in some gainful occupation for the child's own maintenance or the maintenance of some person who is dependent upon him,

the school attendance officer may issue, on the written application of the parent or guardian, a home permit or employment certificate, as the case requires, exempting the child from attendance at school for a period of not more than six weeks in a term and permitting him to engage in such occupation during such period.

between  
14 and 16

(2) Where, in the opinion of the school attendance officer, the services of a child of compulsory school age who has attained the age of fourteen years are required,

- (a) in some occupation in or about the home of his parent or guardian; or
- (b) in some gainful occupation for the child's own maintenance or the maintenance of some person who is dependent upon him,

the school attendance officer may issue, on the application of the parent or guardian, a home permit or an employment certificate, as the case requires, exempting the child from attendance at school and permitting him to engage in such occupation.

Revocation

(3) A school attendance officer may revoke any home permit or employment certificate issued by him if in his opinion the conditions under which he issued the permit have ceased to exist. 1954, c. 86, s. 13.

Provincial  
officer as  
trustee

R.S.O. 1960,  
c. 330

**14.** Where it appears to the Minister that in any territory without municipal organization school trustees are not providing accommodation for the children entitled to attend school, or have neglected or failed to raise the necessary funds for the establishment and maintenance of a school, or have in other respects failed to comply with *The Public Schools Act* and the regulations, or that the election of trustees has been neglected and no regular board of trustees is in existence, the Minister may by commission under his hand authorize and direct the provincial school attendance officer to do all things and exercise all powers that may be necessary for the establishment and maintenance of a school, the erection of school buildings and providing accommodations, the opening and conducting



of a school, the assessing and levying of all sums of money required for school purposes, and generally whatever may be required for the purpose of establishing, maintaining and conducting a school in accordance with *The Public Schools Act* and the regulations, and thereupon the provincial school attendance officer has and may exercise and perform, with regard to all matters set forth in the commission, all the authority, powers and duties vested in, and to be performed by, a board of school trustees under *The Public School Act* and the regulations. 1954, c. 86, s. 14.

**15.—**(1) A parent or guardian of a child of compulsory school age, who neglects or refuses to cause the child to attend school, is, unless the child is legally excused from attendance, guilty of an offence and on summary conviction is liable to a fine of not more than \$25.

Liability  
of parent  
or guardian

(2) The judge or magistrate may, instead of imposing a fine, require a person convicted of an offence under subsection 1 to give a bond in the penal sum of \$100, with one or more sureties to be approved by the judge or magistrate, conditioned that the person shall, after the expiration of five days, cause the child to attend school as required.

Bond for  
attendance

(3) A person who employs a child of compulsory school age during school hours is guilty of an offence and on summary conviction is liable to a fine of not more than \$25 unless the child,

Employment  
during  
school hours

(a) holds a home permit or employment certificate authorizing the employment; or

(b) is excused from attendance at school under clause c of subsection 2 of section 6.

(4) If a corporation contravenes subsection 1 or 3, in addition to the corporation, every director and officer of the corporation who authorizes, permits or acquiesces in the contravention is guilty of an offence and on summary conviction is liable to the same penalty as the corporation. 1954, c. 86, s. 15.

Offences by  
corporations

**16.—**(1) Prosecutions under section 15 shall be instituted by the school attendance officer concerned and, where there is a juvenile and family court with jurisdiction, such prosecutions shall be tried in that court.

Proceedings  
to be taken  
by attend-  
ance officers

(2) In prosecutions under section 15, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is *prima facie* evidence of the facts stated therein without any proof of the signature or appointment of the principal.

Certificate  
of principal  
as evidence

Proof of  
age

(3) Where a person is charged under section 15 in respect of a child who is alleged to be of compulsory school age and the child appears to the judge or magistrate to be of compulsory school age, the child shall, for the purposes of such prosecution, be deemed to be of compulsory school age unless the contrary is proved. 1954, c. 86, s. 16.

## PART II

### TEACHERS

Memorandum of  
contract

**17.**—(1) A memorandum of every contract of employment between a board and a permanent teacher or a probationary teacher shall be made in writing in the form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason such memorandum is not so made, every contract shall be deemed to include the terms and conditions contained in the form of contract prescribed for a permanent teacher and the teacher's salary shall be payable in ten monthly payments in the manner provided therein.

Board and  
lodging

(2) The contract may, in the case of a separate school board, include a stipulation to provide the teacher with board and lodging.

Salary of  
teacher

(3) Unless otherwise expressly agreed, a teacher is entitled to be paid his salary in the proportion that the total number of days during which he teaches bears to the whole number of teaching days in the year. 1954, c. 86, s. 17 (1-3).

Payment for  
absence due  
to illness  
or dental  
condition

(4) Subject to subsection 5, a teacher is entitled to his salary for a total of twenty school days in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than twenty days absence from duty on account of such sickness or such tooth or gum condition. 1954, c. 86, s. 17 (4); 1958, c. 97, s. 2 (1), *amended*.

Itinerant  
teacher

(5) An itinerant teacher is entitled to his salary for 10 per cent of the periods of instruction and supervision specified in the agreement for his employment in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the itinerant teacher his salary for more than 10 per cent of the periods of instruction and supervision in respect of his absence

from duty on account of such sickness or such tooth or gum condition. 1958, c. 97, s. 2 (2), *amended*.

(6) Every teacher is entitled to his salary notwithstanding <sup>Absence of teacher in quarantine</sup> his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties.

(7) Every teacher is entitled to his salary notwithstanding <sup>Appearing as witness in court</sup> his absence from duty as a witness in any court to which he has been summoned in any proceedings to which he is not a party or one of the persons charged.

(8) All matters of difference between boards and teachers <sup>Disputes between teachers and trustees</sup> in regard to salary or other remuneration, whatever may be the amount in dispute, shall be determined in the division court of the division in which the cause of action arose, subject to appeal as provided in section 18.

(9) If it appears to the judge on the trial of an action for <sup>Award of salary by way of penalty</sup> the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months salary.

(10) For the purposes of subsection 9, the failure of a board <sup>Failure of board to pay salary when no written agreement</sup> to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his employment has been made by the board but no written memorandum has been made and executed as required by subsection 1, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of a memorandum in writing is without merit. 1954, c. 86, s. 17 (5-9).

**18.—**(1) In an action between a teacher and a board under <sup>Appeals from division court judgment</sup> section 17, the judge of the division court in which the action is tried may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Minister to appeal.

(2) The Minister may, within one month after the rendering of judgment, appeal from the decision of the judge to the Court of Appeal, by serving notice in writing of such appeal upon the clerk of the division court appealed from, which appeal may be entitled "The Minister of Education of Ontario, Appellant, in the matter between (*naming the parties*)". <sup>Appeal by Minister</sup>

(3) The judge shall thereupon transmit to the office of the <sup>Transmission of papers to Supreme Court</sup> Registrar of the Supreme Court at Toronto, certified under

his hand, the summons and other proceedings in the action, together with the evidence and his judgment thereon, and all objections made thereto, and he shall also certify under his hand to the Minister a true copy of the summons, proceedings, evidence, judgment and objections.

Stay of  
proceedings

(4) After service of the notice of appeal no further proceedings shall be had until the appeal has been determined.

Direction  
to the court  
below

(5) The Court of Appeal shall give such order or direction to the court below touching the judgment to be given as the circumstances require, and upon receipt of such order or direction the judge shall proceed in accordance therewith.

Costs

(6) The Court of Appeal may also in its discretion award costs against the party on whose behalf an unsuccessful appeal is taken which shall be certified to and form part of the judgment of the court below, and such costs and any costs incurred by such party may be paid by the Minister and charged as contingent expenses of his office.

Right of  
appeal

(7) Notwithstanding anything herein contained, any party to an action in which the plaintiff claims more than \$100 has the same right of appeal as in an action in the division court. 1954, c. 86, s. 18.

Teachers to  
be qualified  
R.S.O. 1960,  
c. 94

**19.**—(1) Subject to *The Department of Education Act*, no person shall be employed or act as a teacher in an elementary or secondary school unless he is qualified as prescribed by the regulations.

Separate  
school  
teachers

(2) Subject to the provisions of *An Act respecting the Qualifications of Certain Teachers*, being chapter 52 of the Statutes of Ontario, 1907, and amendments thereto, separate school teachers are subject to the same examinations and shall receive their certificates of qualification in the same manner as public school teachers.

Certificates

(3) Subject to *The Department of Education Act*, a certificate of qualification as a teacher may be awarded only to a British subject of good moral character and physically fit to perform the duties of a teacher, who passes the examinations prescribed by, and otherwise complies with, the regulations.

Idem

(4) All certificates are valid for such periods as the regulations prescribe. 1954, c. 86, s. 19.

Use of  
unapproved  
text-books

**20.**—(1) A teacher shall not use or permit to be used as a text-book in a prescribed subject in an elementary or secondary school any book that is not approved by the Minister or the regulations, and the Minister, upon the report of the inspector concerned, may withhold the whole or any part of the legis-

lative grants in respect of any school in which an unapproved book is so used.

(2) Where a teacher uses as a text-book, or negligently or wilfully permits to be used as a text-book by the pupils of his school, in a prescribed subject, a book that is not approved by the Minister or the regulations, the Minister, on the report of the inspector of the school, may suspend the teacher and the board that operates the school may deduct from the teacher's salary a sum equal to so much of the legislative grants as has been withheld on account of the use of the book or any less sum at its discretion.

(3) Subject to the written approval of the board that operates the school, a teacher may replace any approved text-book that is in actual use in an elementary or secondary school by any other approved text-book on the same subject. 1954, c. 86, s. 20.

**21.** A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any visitors' book, school register, schoolhouse key or any other school property in his possession is not a qualified teacher until restitution is made and he also forfeits any claim that he may have against the board. 1954, c. 86, s. 21.

**22.—(1)** It is the duty of a teacher,

- (a) to teach diligently and faithfully the subjects in the course of study as prescribed by the regulations;
- (b) to encourage the pupils in the pursuit of learning;
- (c) to inculcate by precept and example respect for religion and the principles of Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;
- (d) to maintain proper order and discipline in his classroom and while on duty in the school and on the playground under the direction of the principal;
- (e) to use the English language in instruction and in all communications with the pupils in regard to discipline and the management of the school, except where it is impracticable to do so by reason of the pupil not understanding English, but recitations requiring the use of a text-book may be conducted in the language of the text-book;
- (f) to see that the classroom is ready for the reception of pupils at least fifteen minutes before the time of

opening in the morning and five minutes before the time of opening in the afternoon;

- |                      |  |
|----------------------|--|
| record attendance    | (g) to record the attendance of the pupils every school day in the register supplied by the Minister and in accordance with the instructions contained therein;  |
| timetable            | (h) to conduct his class in accordance with a timetable which shall be accessible to pupils, principal and inspector;  |
| teachers' institutes | (i) to attend regularly the teachers' institutes of the inspectorate;  |
| absence from duty    | (j) to notify the board and the inspector of his absence from school and the reason therefor; and  |
| school property      | (k) to deliver the register, the schoolhouse key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his engagement has ceased. |
- Duties of principal:
- (2) It is the duty of a principal, in addition to his duties as a teacher,
- |                          |   |
|--------------------------|---|
| discipline               | (a) to maintain proper order and discipline in the school;  |
| classify pupils          | (b) to register the pupils, classify them according to the courses of study prescribed, and record their progress through school;   |
| timetable                | (c) to prepare and conduct the school according to a timetable which shall be accessible to pupils, teachers and the inspectors;  |
| examinations and reports | (d) to hold such examinations as may be required by the inspector for the promotion of pupils or for any other purpose as the inspector may direct and report the progress of the pupil to his parent or guardian at least for each school term;                              |
| promote pupils           | (e) subject to revision by the inspector, to make at the end of each school term such promotions from one grade to another as he may deem expedient;  |
| unauthorized texts       | (f) to prevent the use by pupils of text-books that are not authorized by the regulations or prescribed by the Minister;  |
| reports                  | (g) to furnish to the Minister and to the inspector any information that it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, |

and to prepare such reports for the board as are required by the regulations;

- (h) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the schoolhouse, to the care of all maps, apparatus and other school property, to the preservation of shade trees and the orderly arrangement and neat appearance of the playgrounds; care of pupils and property
- (i) to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, or the unsanitary condition of the schoolhouse, outhouses or surroundings; report to M.O.H.
- (j) to refuse admission to the school of any pupil who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to *The Public Health Act* until furnished with a certificate of a medical officer of health or of a duly qualified medical practitioner approved by him that all danger from exposure to contact with such pupil has passed; pupils with communicable diseases R.S.O. 1960, c. 321
- (k) to suspend any pupil guilty of persistent truancy, or persistent opposition to authority, habitual neglect of duty, the use of profane or improper language, or conduct injurious to the moral tone of the school, and to notify the parent or guardian of the pupil and the board and the inspector of the suspension, but the parent or guardian of any pupil suspended may appeal against the action of the principal to the board which has power to remove, confirm or modify the suspension; and suspend a pupil
- (l) to keep a visitors' book and make it available for visitors to sign. R.S.O. 1950, c. 316, s. 108, c. 356, s. 49; 1956, c. 83, s. 2. visitors' book

**23.—**(1) Subject to the regulations, teachers may organize themselves into teachers' institutes for the purpose of receiving instruction in methods of teaching and for discussing educational methods. Organization of teachers' institutes

(2) The Minister may out of any money appropriated for that purpose apportion \$25 to each teachers' institute so organized and conducted according to the regulations where the number of teachers in an inspectorate or united inspectorate is 100 or less and, where it is more than 100, \$25 for each additional 100 or portion thereof, and the council of each Aid to teachers' institutes by the Legislature and equivalent from municipalities

county, city or separated town, or town in the territorial districts shall pay annually to the president of each teachers' institute established within such county, city or town a sum at least equal to the amount so apportioned.

City and  
county  
sharing

(3) If the teachers in an inspectorate composed of a city and part of a county are united in one teachers' institute, the corporation of each municipality shall pay its share of the equivalent of the legislative grant in the proportion that the number of teachers in each inspectorate bears to the total number of teachers in the combined inspectorates.

In territorial  
districts

(4) In the territorial districts, the Minister may apportion \$50 to each teachers' institute where there is no city or town council liable for such contribution. R.S.O. 1950, c. 316, s. 113.

### PART III

#### SCHOOL TRUSTEES' AND TEACHERS' BOARDS OF REFERENCE

Interpre-  
tation

#### 24. In this Part,

- (a) "contract" means a contract of employment between a teacher and a board in accordance with Part II and the regulations;
- (b) "employed" means engaged as a permanent teacher by a board;
- (c) "judge" means a judge of a county or district court;
- (d) "teacher" means a person qualified to teach in an elementary or secondary school, and employed as a permanent teacher by a board, in accordance with Part II and the regulations. 1954, c. 86, s. 22.

Termination  
of employ-  
ment, by  
school board

25.—(1) The dismissal of a teacher, or the termination of the contract of a teacher, by a board shall be by notice in writing, which shall state the reasons therefor, in accordance with the terms of the contract.

by teacher

(2) Where a teacher is employed by a board, the termination of such employment by the teacher shall be by notice in writing in accordance with the terms of the contract. 1954, c. 86, s. 23 (1, 2).

Application  
for board

(3) Notwithstanding anything in this or any other Act, where a teacher is dismissed or the engagement of a teacher is terminated by the board or teacher, the teacher or board if not in agreement with the dismissal or termination may at any time within fifteen days after receiving the notice referred to in subsection 1 or 2, as the case may be, apply in writing by registered letter to the Minister for a Board of Reference,



stating the disagreement. 1954, c. 86, s. 23 (3); 1960, c. 107, s. 2.

(4) The applicant shall send a copy of the application by registered mail to the other party to the disagreement on the same day as the application is sent to the Minister. 1954, c. 86, s. 23 (4).

**26.—**(1) A board shall not make a permanent appointment to take the place of a teacher who is dismissed or whose appointment has been terminated in a manner not agreeable to the teacher until,

- (a) the time prescribed for applying for a Board of Reference has elapsed and the teacher has not applied for a Board of Reference and sent a copy of the application to the board, as provided in section 25;
- (b) the board has received from the teacher notice in writing that no application will be made under section 25;
- (c) the board has received from the Minister notice in writing that an application made by the teacher under section 25 has been withdrawn;
- (d) the board has received from the Minister notice in writing that he has refused an application made by the teacher under section 25;
- (e) the board has received from the Minister notice in writing that the teacher, being the applicant, has failed to comply with the requirements of subsection 3 of section 27; or
- (f) the board has received from the Minister a direction under section 30 directing the discontinuance of the contract,

whichever first occurs.

(2) A teacher who terminates an engagement in a manner not agreeable to the board shall not enter into a contract of employment with another board after the teacher has received notice of the application of the school board for a Board of Reference until,

- (a) the teacher has received from the Minister notice in writing that an application made by the board under section 25 has been withdrawn;
- (b) the teacher has received from the Minister notice in writing that he has refused an application made by the board under section 25;

- (c) the teacher has received from the Minister notice in writing that the board, being the applicant, has failed to comply with the requirements of subsection 3 of section 27; or
- (d) the teacher has received from the Minister a direction under section 30 directing the discontinuance of the contract,

whichever first occurs. 1954, c. 86, s. 24.

Application  
for Board  
of Reference

**27.**—(1) Upon receipt of an application for a Board of Reference, the Minister shall send notice of the application by registered mail to the other party to the disagreement and shall within thirty days thereof inquire into the disagreement and shall, within the same time,

- (a) refuse to grant the Board of Reference; or
- (b) grant the Board of Reference and direct a judge to act as chairman thereof.

Security  
for costs

(2) Before directing a judge to act as chairman of a Board of Reference, the Minister may require the applicant to furnish security for costs in such amount and in such form as he may deem advisable.

Naming of  
representa-  
tives

(3) Upon directing a judge to act as chairman of a Board of Reference, the Minister shall cause notice thereof to be sent by registered mail to the board and teacher involved in the disagreement and the notice shall require each of them to name a representative to the Board of Reference and to notify the Minister of such nomination by registered mail within ten days of the sending of the notice by the Minister.

Failure to  
name repre-  
sentatives

(4) If the applicant fails to comply with the requirements of subsection 3, the application shall be deemed to be abandoned and the Minister shall cause notice thereof to be sent by registered mail to the other party to the disagreement.

Idem

(5) If the respondent fails to comply with the requirements of subsection 3, the Minister shall direct the continuance of the contract.

Failure of  
representa-  
tives to  
appear

(6) If the representative of the board or the teacher, having been named, fails to appear at the hearing, the chairman of the Board of Reference shall name a representative for the board or teacher, as the case may be. 1954, c. 86, s. 25.

Place and  
time of  
hearing

**28.** The chairman of the Board of Reference shall, within thirty days of his appointment, and upon reasonable notice thereof to the parties, convene the Board of Reference in any appropriate and convenient court house or municipal or

school building and at such time as he may appoint. 1954, c. 86, s. 26.

**29.**—(1) The Board of Reference shall inquire into the matter in dispute and for such purpose the chairman has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Duty to inquire and powers of judge  
R.S.O. 1960, c. 323

(2) The meetings of the Board of Reference shall be held *in camera*. 1954, c. 86, s. 27. Meetings in camera

**30.**—(1) Upon the completion of the hearing, the Board of Reference shall report to the Minister within seven days and direct the continuance of the contract or the discontinuance thereof, and may also make such recommendations as it deems advisable. Board of Reference to report

(2) The Minister shall cause a copy of the direction of the Board of Reference and of its report, including recommendations, if any, to be sent by registered mail to the board and the teacher within seven days of the receipt of the report, and shall direct the implementation of the direction of the Board of Reference. 1954, c. 86, s. 28. Notice of direction

**31.**—(1) The direction of the Board of Reference under section 30 is binding upon the board and the teacher. Direction of Board

(2) If a board fails to comply with the direction of the Board of Reference under section 30, any amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction. Failure to comply with direction of Board

(3) If a teacher fails to comply with the direction of the Board of Reference under section 30, the Minister shall suspend the certificate of qualification of the teacher for such period as he may deem advisable. 1954, c. 86, s. 29. Idem

**32.** Subject to the regulations made under section 33, the chairman of the Board of Reference shall determine and direct the costs to be paid by either or both parties in the disagreement, and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. 1954, c. 86, s. 30. Payment of costs

**33.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) fixing the remuneration of chairmen and members of Boards of Reference and defining, prescribing and limiting other items of expense, including travelling

and living expenses, which shall be included in the costs of a Board of Reference;

- (b) regulating the practice and procedure to be followed upon any reference; and
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1954, c. 86, s. 31.

## PART IV

### BOARDS AND TRUSTEES

Duties of  
boards:

conduct  
schools

appoint  
secretary

meetings

reports

provide  
accommoda-  
tion

insure  
buildings

security  
of treasurer

repair  
property

erect  
fences

#### 34. Every board shall,

1. ensure that every school under its charge is conducted in accordance with this Act, the Act under which it is operated, and the regulations;
2. appoint a secretary and a treasurer or a secretary-treasurer, who, in the case of an elementary school board, may be a member of the board;
3. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;
4. transmit to the Minister all reports and returns required by the regulations; 1954, c. 86, s. 32, cls. (a-d).
5. provide adequate accommodation during each school year for the children who have a right to attend a school under the jurisdiction of the board; 1957, c. 101, s. 14, *amended*.
6. make provision for insuring adequately the school buildings and equipment;
7. take proper security from the treasurer or secretary-treasurer;
8. keep the school buildings, fences and premises in proper repair and in a proper sanitary condition, provide suitable furniture and equipment and keep it in proper repair, and protect the property of the board; 1954, c. 86, s. 32, cls. (e-g).
9. erect and maintain any wall or fence deemed necessary by the board or required by the regulations for enclosure of the school premises; 1957, c. 110, s. 1.

10. appoint for each school that it operates a principal<sup>appoint principal and teachers</sup> and an adequate number of teachers all of whom shall be qualified according to the Acts and regulations administered by the Minister. 1958, c. 97, s. 3.

**35.** A board may,

Powers of boards:

1. appoint such committees as it may deem expedient;<sup>committees</sup>
2. subject to Part III, appoint and remove such teachers, officers and servants as it may deem expedient, determine the terms on which they are to be employed, and fix their salaries and prescribe their duties;<sup>appoint employees</sup>
3. dismiss the secretary or treasurer at any time, and thereupon shall make a new appointment to fill the vacancy;<sup>dismiss secretary or treasurer</sup>
4. determine the number, kind, grade, description and territorial boundaries of schools to be established and maintained; 1954, c. 86, s. 33, cls. (a-d).<sup>attendance areas</sup>
5. acquire or rent school sites;<sup>sites</sup>
6. build school buildings on property owned by the board within its jurisdiction; 1954, c. 79, s. 7 (2), *amended*.<sup>build schools</sup>
7. operate the playground as a park or playground and rink during the school term or in vacation or both, and provide and maintain such equipment as it deems advisable, and provide such supervision as it deems proper, provided the proper conduct of the school is not interfered with;<sup>playgrounds, parks, rinks</sup>
8. organize and carry on gymnasium classes in school buildings for pupils or others during the school term or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with;<sup>gymnasiums</sup>
9. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; 1954, c. 86, s. 33, cls. (e-g).<sup>milk</sup>
10. provide for the use of pupils text-books and other school supplies, and either furnish them to the pupils free of charge or collect for the use thereof from their parents or guardians a sum not exceeding 25 cents per pupil in each month of the school year to assist in<sup>provide books and supplies</sup>

defraying the cost thereof; 1954, c. 86, s. 33, cl. (h); R.S.O. 1950, c. 316, s. 93, cl. (p).

equipment  
and school  
libraries

11. procure registers, maps, globes, apparatus and prize books, and establish and maintain school libraries;

provide  
system for  
pupil  
savings

12. provide books, stationery and other materials necessary in connection with the establishment and maintenance of any system introduced for the encouragement of thrift and the habit of saving;

medical  
and  
dental  
inspection

13. provide and pay for such medical and dental inspection of the pupils as the regulations may prescribe, or in the absence of regulations as the board may deem proper, but only where provision for such medical and dental inspection was inaugurated by the board before the 31st day of July, 1924, in the case of an elementary school board and before the 31st day of December, 1941, in the case of a secondary school board;

trustees'  
fees and  
travelling  
expenses

14. pay the travelling expenses and membership fees of any member of the board or of any teacher or officer of the board, incurred in attending meetings of the Ontario Educational Association or other similar association of teachers or trustees and may make grants and pay membership fees to any such association;

legal  
costs

15. pay the costs, or any part thereof, incurred by any member of the board or by any teacher, officer or other employee of the board in successfully defending any legal proceeding brought against him for libel or slander in respect of any statements published at a meeting of the board or of a committee thereof, relating to the employment, suspension or dismissal of any person by the board; 1954, c. 86, s. 33, cls. (i-m).

invest  
funds

16. invest funds received from an insurance claim, gift, legacy or sale of property in such securities as a trustee may invest in under *The Trustee Act*; 1960, c. 107, s. 3.

R.S.O. 1960,  
c. 408

accident  
insurance

17. make provision for insuring the board against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board; 1954, c. 86, s. 33, cl. (o).

supervisory  
officers

18. appoint supervisory officers of the teaching staff for positions that are provided for in any Act or regulation administered by the Minister and every appointee

shall hold the qualifications and perform the duties required in the Act or regulations; 1958, c. 97, s. 4. *amended.*

19. subject to the provisions of this Act and the Act<sup>student fees</sup> under which the school is operated, fix the fees to be paid by or on behalf of pupils, and the times or payment thereof, and when necessary enforce payment thereof;
20. give the necessary orders on the treasurer for pay-<sup>order</sup>ment of all moneys expended for school purposes<sup>payment of bills</sup> and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the Act under which the board is established or the regulations and by the board;
21. permit the school buildings and premises to be used<sup>permit use of school</sup> for any educational or other lawful purposes that it deems proper, provided the proper conduct of the school is not interfered with;
22. expel, on the report of the principal, any pupil<sup>expel pupils</sup> whose conduct is deemed to be so refractory that his presence in school is injurious to other pupils, and exclude any pupil by or on behalf of whom fees are legally required to be paid if such fees are not paid after reasonable notice;
23. establish and maintain cadet corps and classes in<sup>cadet corps</sup> military instruction and provide uniforms for such purposes;
24. provide for the promotion and encouragement of<sup>athletics</sup> athletics and for the holding of school games;
25. with the approval of the Minister,<sup>guidance</sup>
  - i. appoint one or more officers qualified according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils as will enable them to plan intelligently for their educational and vocational advancement, or
  - ii. enter into an agreement with one or more other boards for the appointment of one or more such officers, each of whom shall apportion his time in accordance with the terms of the agreement; 1954, c. 86, s. 33, cls. (q-w).

public  
lectures

26. subject to the regulations, establish, conduct and maintain free lectures open to the public and include in the estimates for the current year the expense thereof; R.S.O. 1950, c. 316, s. 93, cl. (y).

summer  
schools

27. establish summer schools in subjects of the course of study; R.S.O. 1950, c. 316, s. 93, cl. (j), *part*; 1954, c. 87, s. 34 (1), *amended*.

student  
activities

28. authorize and exercise jurisdiction over such other school activities as pertain to the welfare of the pupils; 1955, c. 75, s. 1.

board for  
courses in  
conservation

29. provide or pay for board and lodging for a pupil for a period not exceeding two weeks in any year while he attends a school for a course in conservation or natural science with the consent of his parent or guardian and with the permission of the board;

cafeteria

30. operate a cafeteria for the use of the staff and students. 1960, c. 107, s. 3.

Honorarium  
and mileage  
allowance  
for trustees

**36.** A board of a township school area or of a high school district that comprises two or more municipalities or parts thereof may pay to a trustee,

- (a) an honorarium not exceeding \$5 for each of not more than twelve meetings attended by him in any year; and
- (b) a mileage allowance not exceeding 7 cents for each mile necessarily travelled by him in going from his residence to the meetings of the board and returning to his residence. R.S.O. 1950, c. 316, s. 15 (25); 1954, c. 87, s. 34 (2), cl. (b).

Transporta-  
tion of  
pupils

**37.—(1)** A board may provide transportation for its resident pupils to and from a school that the board operates or for its pupils for whom it pays fees in a school operated by another board.

Elementary  
to  
secondary

(2) An elementary school board may provide transportation to a secondary school for pupils whose parents or guardians are supporters of the elementary school and who do not reside in a secondary school district.

Purchase  
of bus

(3) For the purposes of this section, a board may purchase a vehicle either from current revenue or from a debenture issued for that purpose.

Agreements

(4) For the purposes of this section, a board may make an agreement or agreements for one school year or less with a



corporation, commission or person for the transportation of such pupils.

(5) Where a secondary school board provides transportation for more than thirty pupils, the board may with the approval of the Ontario Municipal Board make an agreement for a term not exceeding five years. R.S.O. 1950, c. 316, ss. 99, 100; 1954, c. 87, s. 76, *amended*. Secondary agreements

**38.**—(1) A board, by resolution, may provide pensions for employees or any class thereof by contract either with Her Majesty in accordance with the *Government Annuities Act* (Canada) or with an insurer licensed under *The Insurance Act* or with both Her Majesty and such an insurer in the manner and subject to the conditions set out in paragraph 59 of section 377 of *The Municipal Act* and the provisions of the said paragraph 59, except clause *b*, apply *mutatis mutandis*. 1954, c. 86, s. 34 (1). Pensions  
R.S.C. 1952,  
c. 132  
R.S.O. 1960,  
cc. 190, 249

(2) In this section, "employee" does not include a teacher or inspector or an administrative officer who holds a certificate of qualification as a teacher and who is eligible to contribute to the Teachers' Superannuation Fund. 1954, c. 86, s. 34 (2); 1955, c. 75, s. 2. Interpretation

(3) No resolution passed under this section shall become operative until approved by the Minister, nor shall any such resolution so passed and approved be amended or repealed without the approval of the Minister. 1954, c. 86, s. 34 (3). Approval of Minister

**39.** A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof in the manner and subject to the conditions set out in paragraph 60 of section 377 of *The Municipal Act* and the provisions of the said paragraph 60 apply *mutatis mutandis*. 1954, c. 86, s. 35. Sick leave credits

**40.**—(1) A board may grant an annual retirement allowance, payable weekly, monthly or otherwise during his life, to any employee of the board who has been in the service of the board for at least twenty years and who, Retirement allowances

(a) is retired because of age; or

(b) while in the service has become incapable through illness or otherwise of efficiently discharging his duties;

provided that no retirement allowance shall be granted under this section which, together with the amount of any pension payments payable to the employee in any year under a pen-

R.S.O. 1960,  
c. 392

sion plan of the board or any municipality or under *The Teachers' Superannuation Act*, will exceed three-fifths of his average annual salary for the preceding three years of his service, or \$2,500.

Interpre-  
tation

(2) "Pension payments" in subsection 1 means, in the case of pension payments under a board or municipal plan, only such payments that result from joint contributions of the employer and employee and does not include any such payments that result solely from contributions of the employee.

Limitation  
on applica-  
tion of  
section

(3) Where the board has a pension plan in operation, or where a municipality has a pension plan in operation in which the employees of the board are included, this section applies only to employees who are in the employ of the board on or before the 1st day of July, 1954, and in any event does not apply to an employee who enters the service of the board after the 1st day of July, 1956. 1954, c. 86, s. 36.

Insurance,  
hospitaliza-  
tion, etc.  
R.S.O. 1960,  
cc. 190, 304

**41.—**(1) A board may by resolution provide, by contract either with an insurer licensed under *The Insurance Act* or with an association registered under *The Prepaid Hospital and Medical Services Act*,

- (a) group life insurance for employees or any class thereof;
- (b) group accident insurance or group sickness insurance for employees or any class thereof and their wives and children; and
- (c) hospital, medical, surgical, nursing or dental services or payment therefor for employees or any class thereof and their wives and children,

and may provide for contributing toward the cost thereof. 1954, c. 86, s. 37 (1).

Contribu-  
tions re  
Ontario  
hospital  
care plan  
R.S.O. 1960,  
c. 176

(2) A board may by resolution provide for contributing toward the cost to employees of the plan of hospital care insurance provided for under *The Hospital Services Commission Act*. 1959, c. 92, s. 1.

Contribu-  
tions

(3) No resolution under this section authorizes contributions by the board in excess of the total of those made by the employees. 1954, c. 86, s. 37 (2).

Open  
meetings  
of school  
boards

**42.—**(1) The meetings of a school board, except meetings of a committee of the board including a committee of the whole board, shall be open to the public and no person shall be excluded therefrom except for improper conduct.

(2) The presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. 1960, c. 107, s. 4. Exclusion of persons

**43.—(1)** Unless all the members of the new board have been appointed or elected and a date for the first meeting has been decided upon by the old board, the first meeting of a board in each year shall be held at the hour of 7 o'clock in the evening of the second Wednesday in January or at such other hour of the same day and at such place as may have been determined by resolution of the old board. First meetings

(2) At the first meeting in each year, the secretary shall preside until the election of the chairman or, if there is no secretary or in his absence, the members present shall elect one of themselves to preside at the election of the chairman, and the member so selected to preside may vote as a member. Presiding officer

(3) At the first meeting in each year and at the first meeting after a vacancy occurs in the office of chairman, the members shall elect one of themselves to be chairman, and the chairman shall preside at all meetings. 1954, c. 86, s. 38 (1-3). Election of chairman

(4) In the case of an equality of votes at the election of a chairman or vice-chairman, the candidates shall draw lots to fill the position of chairman or vice-chairman, as the case may be. 1959, c. 92, s. 2. Where equality of votes

(5) The members of the board may also elect one of themselves to be vice-chairman and he shall preside in the absence of the chairman. Vice-chairman

(6) If at any meeting there is no chairman or vice-chairman present, the members present may elect a chairman for that meeting. Temporary chairman

(7) At the first meeting of a newly established board and as often as a vacancy occurs, the board shall also appoint a secretary and a treasurer or a secretary-treasurer, who shall hold office during the pleasure of the board. Secretary, treasurer

(8) In the absence of the secretary from any meeting, the chairman or other member presiding may appoint any member or other person to act as secretary for that meeting. Temporary secretary

(9) The presence of a majority of all the members constituting the board is necessary to form a quorum, and the vote of a majority of such quorum is necessary to bind the board. Quorum

(10) The presiding officer, except where he is the secretary of the board and is not a member, may vote with the other members of the board upon all questions, and any question Chairman voting; equality of votes

on which there is an equality of votes shall be deemed to be negatived.

Subsequent  
meetings

(11) Subsequent meetings of the board shall be held at such time and place as the board may deem expedient.

Special  
meetings

(12) Subject to the provisions of the Act under which the board is established, special meetings of the board may be called by the chairman and in such other manner as the board may determine. 1954, c. 86, s. 38 (5-12).

Declaration

**44.**—(1) Except as provided in subsection 2, every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, shall make and subscribe the following declaration before the secretary of the board or before any person authorized to administer an oath and in default he shall be deemed to have resigned:

#### DECLARATION

I, *A.B.*, do solemnly declare that:

1. I am not disqualified under any Act from being a member of (*name of board*).

2. I will truly, faithfully, impartially and to the best of my ability execute the office of trustee, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office.

Declared before me at  
.....in the  
County or District of  
.....this  
.....day of  
....., 19.. } *A.B.*

Idem

(2) Where a person is elected or appointed to fill a vacancy on a board, he shall make such declaration on or before the day fixed for holding the first meeting of the board after his election or appointment and in default he shall be deemed to have resigned.

Oath of  
allegiance

(3) Every person elected or appointed to a board, before entering on his duties as a trustee, shall take and subscribe before the secretary of the board or before any person authorized to administer an oath the oath of allegiance in the following form:

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at  
.....in  
the County or District  
of.....this  
.....day of  
....., 19.. } *A.B.*

(4) The declaration and oath of allegiance shall be filed with the secretary of the board within eight days after the making or taking thereof, as the case may be. 1957, c. 110, s. 2. Filing of declaration and oath

**45.** Every secretary of a board shall,

Duties of secretary

- (a) keep a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose by the board, and ensure that the minutes, when confirmed, are signed by the chairman or presiding member; 1954, c. 86, s. 39, cl. (a).
- (b) transmit to the inspector copies of reports requested by the inspector or the Minister; R.S.O. 1950, c. 316, s. 102, cl. (e), *amended*.
- (c) perform such other duties as may be required of him by the regulations, by any other Act or by the board. 1954, c. 86, s. 39, cl. (b).

**46.**—(1) Every treasurer and collector of a board and, if required by the board, any other officer of a board shall give security for the faithful performance of his duties, and the security shall be deposited for safe keeping as directed by the board. Security by officers

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in *The Guarantee Companies Securities Act*. 1954, c. 86, s. 40. Form of security  
R.S.O. 1960, c. 168

**47.** Every treasurer of a board shall,

Duties of treasurer

- (a) receive and account for all school moneys;
- (b) open an account or accounts in the name of the board in such of the chartered banks of Canada or in such other place of deposit, as may be approved by the board;
- (c) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts;
- (d) disburse all moneys as directed by the board;
- (e) produce, when required by the board or by auditors or other competent authority, all papers and moneys in his possession, power or control belonging to the board. 1954, c. 86, s. 41.

**48.** Any person may, at all reasonable hours, inspect the minute book, the audited annual financial report and the Inspection of books and accounts

current accounts of a board, and the secretary, upon the written request of any person and upon the payment to the board at the rate of 25 cents for every 100 words or at such lower rate as the board may fix, shall furnish copies of them or extracts therefrom certified under his hand. 1958, c. 97, s. 5.

Trustees  
disqualified  
as inspectors  
and teachers

**49.**—(1) A school trustee is not eligible for appointment as an inspector or as a teacher by the board of which he is a member. 1954, c. 86, s. 42 (1), *amended*.

Teachers  
disqualified  
as trustees

(2) A teacher is not eligible to be a member of the board by which he is employed. 1954, c. 86, s. 42 (2); 1959, c. 92, s. 3.

Inspectors  
disqualified  
as teachers  
and trustees

(3) An inspector is not eligible for appointment as a teacher by a board or to be a member of a board while he holds the office of inspector. 1954, c. 86, s. 42 (3).

Seat vacated  
by interest  
in contract  
with board

**50.**—(1) A school trustee shall not enter into any contract, agreement, engagement or promise of any kind, either in his own name or in the name of another, and either alone or jointly with another, in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise is void, and a trustee violating the provisions of this subsection *ipso facto* vacates his seat.

Newspaper  
proprietors,  
etc.

(2) No person is disqualified from being a member of a board, or from sitting and voting on such board, by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication subscribed for by the board or in which an advertisement is inserted in the regular course of business, if the subscription or advertisement is paid for at the usual rate, but such member is not entitled to vote where his own account is in question. 1954, c. 86, s. 43 (1, 2).

Relative  
of employee  
of board

(3) No person is disqualified from being a member of a board, or from sitting and voting on such board, by reason only of his being related by blood or marriage to a person employed by the board. 1959, c. 92, s. 4.

Corporation  
shareholders  
and officers

(4) A trustee who is a shareholder or an officer, director or other employee of a corporation shall not vote on any question affecting the corporation with respect to any dealings or contract between the corporation and the board.

Exceptions

(5) Nothing in this section,

(a) prevents a trustee from receiving or being allowed such allowances for attendance at meetings and

otherwise as are permitted by the Act under which he is elected or appointed;

- (b) prevents a trustee who is an assessor or a collector from receiving or being allowed such remuneration as is provided for under the Act under which he is elected or appointed; or
- (c) prevents a trustee who is a secretary or treasurer of a rural elementary school board from receiving or being allowed such compensation for his services as may be approved at, and entered in the minutes of, the annual meeting or at a special meeting of the electors in the case of a public school board, or of the supporters of the school in the case of a separate school board.

(6) On the complaint of two ratepayers assessed for the support of the school or schools under the jurisdiction of the board, or on the complaint of the remaining trustee or trustees, the judge of the county or district court shall, on proof of the facts, declare the seat vacant and the provisions of the Act under which the board is established, with respect to the filling of vacancies, apply. 1954, c. 86, s. 43 (3-5). Declaring  
seat vacant

**51.**—(1) If a trustee is convicted of an indictable offence, or becomes mentally ill, or absents himself without being authorized by resolution entered in the minutes from the meetings of the board for three consecutive months, or ceases to hold the residence qualification required by the Act under which he was elected or appointed in the case of a public or secondary school board or ceases to reside within the municipality in the case of an urban separate school board or within three miles of the school in the case of a rural separate school board, he *ipso facto* vacates his seat and the provisions of the Act under which the board is established, with respect to the filling of vacancies, apply. Seat  
vacated by  
conviction,  
etc.

(2) Notwithstanding subsection 1, where a trustee is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. 1954, c. 86, s. 44. Proviso

**52.** Where a complaint is made in writing to the inspector concerned by any two ratepayers assessed for the support of the school or schools under the jurisdiction of the board, or by the remaining trustee or trustees thereof, that any trustee was not, at the time of his election or appointment, qualified Idem

to be elected or appointed, or is not competent to act or is disqualified from acting, the inspector may file the complaint with the judge of the county or district court and on proof that the complaint is based on fact, the judge shall declare the seat vacant and the provisions of the Act under which the board is established, with respect to the filling of vacancies, apply. 1954, c. 86, s. 45.

Failure to  
take  
security

**53.** If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys, and any school money is forfeited or lost in consequence of the refusal or neglect, every member of the board is personally liable for such moneys which may be recovered by the board, or by any ratepayer assessed for the support of the school or schools under the jurisdiction of the board suing on behalf of himself and all other such ratepayers, in a court of competent jurisdiction, but no member is liable if he proves that he made reasonable efforts to procure the taking of the security. 1954, c. 86, s. 46.

Biennial  
elections

**54.—(1)** Notwithstanding any other Act, where the council of a municipality is required to conduct the election of trustees for a board and biennial elections have been provided for members of council, the trustees shall be elected biennially in the same year as the members of council and shall hold office for two years.

Trustees in  
office before  
first  
biennial  
election

**(2)** All elected trustees in office in the year in which the nomination meeting is to be held in respect of the first biennial election of trustees cease to hold office at the end of that year.

Where a  
responsible  
municipality  
has annual  
elections  
and another  
municipality  
in same  
school  
section has  
biennial  
elections

**(3)** Where a board has jurisdiction in more than one municipality and the election of members of council of the municipality that is responsible for conducting the nominations and elections of trustees has annual elections and one or more of the other municipalities has biennial elections for members of council, each municipality having biennial elections shall make provision for the nomination and election of trustees in the municipality for the year in which elections are not held for members of council of that municipality. 1958, c. 97, s. 6.

Formation  
of school  
board during  
biennial  
term of  
council

**(4)** Where a council is elected biennially and a new board is established after the election of council to be organized for the second year of the term of council, the council shall provide for the election of trustees to hold office for one year from the 1st day of January of such year and the election shall be held in the same manner as the election of trustees is held at municipal elections. 1960, c. 107, s. 5.



## PART V

## AUXILIARY CLASSES

**55.**—(1) Subject to the regulations, a board may establish and conduct classes for children who, not being persons whose mental capacity is incapable of development beyond that of a child of normal mentality at eight years of age, are from any physical or mental cause unable to take proper advantage of the elementary or secondary school courses. Classes which may be established

(2) Subject to the regulations, a board may establish day classes in oral speech and lip-reading to accommodate deaf children within its jurisdiction. 1954, c. 86, s. 47. Classes for deaf children

**56.**—(1) For the purposes of section 55, the board may, subject to the approval of the Minister, Powers of board

- (a) acquire a site and erect thereon such buildings as may be suitable for the education and training of the pupils;
- (b) establish such courses of instruction and training as may be best adapted to secure the mental and physical development of the pupils;
- (c) appoint such teachers and special instructors in ordinary learning or in any useful and beneficial occupation as the board may think proper.

(2) With the approval of the Minister, a site may be acquired and buildings erected thereon for the purposes of this Part in an adjoining municipality. 1954, c. 86, s. 48. Acquiring site, etc., in adjoining municipality

**57.**—(1) Subject to the regulations, pupils may be admitted to auxiliary classes upon the report and recommendation of a board consisting of, Admission only on recommendation

- (a) the principal of the school;
- (b) a legally qualified psychiatrist or other legally qualified medical practitioner appointed by the school board; and
- (c) the school inspector. 1954, c. 86, s. 49 (1); 1955, c. 75, s. 3.

(2) The principal of the school shall be the chairman of the board and where there is more than one inspector in the inspectorate the senior inspector, or an inspector nominated by him, shall be the school inspector on the board. Chairman and inspector

(3) Subject to the regulations, a resident pupil,

- (a) who is required to attend school under Part I; and

Compulsory attendance

- (b) in respect of whom a report recommending his admission to an auxiliary class established by the school board has been made and approved under subsection 1,

may be required by the school board to attend such auxiliary class.

Non-resident pupils

(4) Non-resident pupils may be admitted to auxiliary classes under the terms permitted or prescribed by the regulations, and upon payment of such fees for instruction as may be fixed by the board and approved by the Minister. 1954, c. 86, s. 49 (2-4).

Supervision of health, etc., of pupils

**58.** Where a board has established auxiliary classes under this Part, it may provide for the proper supervision of the health and treatment of pupils attending the classes and for proper medical treatment of pupils who appear to the principal or inspector to require the same. 1954, c. 86, s. 50.

Visiting pupils in their homes

**59.** The board may direct such officers as it may appoint to visit pupils' homes and to consult with and advise their parents as to the conditions that will be most conducive to the pupils' development. 1954, c. 86, s. 51.

Transportation of pupils

**60.** Subject to the regulations, the board may provide for the transportation of pupils to and from the classes, and may pay for the same out of the funds provided under section 61. 1954, c. 86, s. 52.

Raising money for classes

**61.** The moneys required by a board for carrying out the objects of this Part shall be raised and levied in the same manner as for the erection, establishment, improvement or maintenance of the schools under the control of the board. 1954, c. 86, s. 53.

## PART VI

### SCHOOL SITES

Interpretation

**62.** In this Part,

- (a) "board" means a public school board, separate school board, continuation school board, board of education, high school board or advisory committee appointed under Part III of *The Secondary Schools and Boards of Education Act*;
- (b) "judge" means a judge or junior or acting judge of the county or district court of the county or district in which lands to be acquired for a school site under this Part are situated;

R.S.O. 1960, c. 362

- (c) "owner" includes a mortgagee, lessee, tenant and occupant and any person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested. 1954, c. 86, s. 54, cls. (a-c).

**63.** A judge who is a member of a board shall not act in any matter under this Part in which the board is interested. 1954, c. 86, s. 55. Judge not to act when member of board

**64.** The powers and duties conferred and imposed upon a board by this Part are subject to the regulations. 1954, c. 86, s. 56. Powers and duties to be subject to regulations

**65.**—(1) Subject to the provisions of *The Public Schools Act* and *The Separate Schools Act* as to the selection of a site by a rural school board, every board may acquire by purchase or otherwise or may expropriate any land described in a resolution of the board declaring that the land is required for a school site or for the enlargement of a school site. Board may purchase or expropriate R.S.O. 1960, cc. 330, 368

(2) The board of education for a city or town may acquire by purchase or otherwise, or may expropriate, land in a township for the purposes of a school site where the land adjoins a boundary between the city or town and the township. Acquiring land in adjoining township

(3) Where a board of education expropriates land under subsection 2, the land is not exempt from taxation by the township, but the corporation of the township and the board of education may agree upon a fixed annual sum to be paid as taxes upon the land, or in case of disagreement, the amount shall be determined by the judge. 1954, c. 86, s. 57. Land not to be exempt from taxation

**66.**—(1) A board of a city or town may acquire by purchase or otherwise any land in an adjacent municipality that the board deems it desirable to acquire in view of the probable further extension of the limits of the city or town so as to include the land, but no land shall be acquired under this section at a greater distance than five miles from the limits of the city or town. 1954, c. 86, s. 58 (1); 1957, c. 110, s. 3. Acquiring land outside city or town for future school sites

(2) All land acquired under subsection 1, so long as it is held by the board, is subject to municipal assessment and taxation in the municipality in which it is situated. Assessment and taxation

(3) Nothing in subsection 1 shall be deemed to authorize the expropriation of land in another municipality by a board of a city or town. 1954, c. 86, s. 58 (2, 3). Expropriation not authorized

(4) So long as land acquired by a board of a city or town under subsection 1 is held by the board, no school building or other permanent improvement shall be constructed on such Building on land prohibited

land until the land is included within the limits of the school section under the jurisdiction of the board. 1959, c. 92, s. 5, *amended*.

Power to  
dispose of  
sites so  
acquired

(5) Where a board has acquired land in another municipality under subsection 1, and the land appears to the board to have become undesirable for school purposes, the board may sell, lease or otherwise dispose of the land as it may deem expedient. 1954, c. 86, s. 58 (4).

Order for  
immediate  
entry on  
land taken

**67.** At any time after a board passes a resolution declaring that any land is required for a school site, or for the enlargement of a school site, and that immediate possession thereof is required by it, the board, by leave of the judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the judge, to satisfy the compensation, may enter upon and take possession of the land, and if any resistance or forcible opposition is made to its so doing, the judge may issue his warrant to the sheriff of the county or district in which the land lies to put the board in possession and to put down such resistance or opposition, which the sheriff, taking with him sufficient assistance, shall accordingly do. 1954, c. 86, s. 59.

Who may  
sell and  
convey to  
board

**68.**—(1) Every corporation, tenant in tail or for life, guardian, executor, administrator, committee and every trustee, not only for and on behalf of himself, his heirs and successors, but also for and on behalf of those he or they may represent, whether married women, infants, unborn issue, mentally incompetent persons or mentally defective persons, or other person, seized, possessed of or interested in any land may contract for, sell and convey all or part thereof or any interest therein to a board for a school site or for an enlargement of or addition to a school site, and any contract, agreement, sale, conveyance or assurance so made is valid and effectual to all intents and purposes.

Where there  
is no person  
who can  
convey

(2) Where there is no person who under subsection 1 may contract, sell or convey, the Supreme Court may on the application of the board appoint some person to act for and on behalf of the owner for the purposes mentioned in subsection 1 and in any proceedings that may be taken under this Part and may give proper direction concerning the disposition of the purchase money. 1954, c. 86, s. 60.

Determining  
amount of  
compensa-  
tion where  
no agreement

**69.**—(1) Where the owner and the board are unable to agree on the compensation to be paid to the owner, the amount to be paid shall be fixed and determined by the judge upon oral evidence at such time and place as he may upon notice to all concerned appoint.

Hearing

(2) The hearing shall be conducted in the same manner as nearly as may be as in the case of a trial before the judge in

an action in the county court and a subpoena may issue from the county court to command the attendance of witnesses.

(3) The sheriff and the clerk of the county court shall perform the same duties and are entitled to the same fees as in the case of a trial in the county court. Duties of sheriff and clerk

(4) An appeal lies from the decision of the judge to the Court of Appeal. 1954, c. 86, s. 61. Appeal

**70.** The judge shall determine what interest, if any, shall be paid to the owner. 1954, c. 86, s. 62. Interest payable to owner

**71.**—(1) On the filing with the county judge of the certificate of an Ontario land surveyor that he is not interested in the matter, that he knows the land, describing it, and that some certain sum named in the certificate is, in his opinion, a fair compensation for the land, the judge, if satisfied by affidavit or other evidence, that diligent inquiry has been made and that the owner is unknown or cannot be found, may order that a notice be inserted for such time as he may deem proper in some newspaper published in the county or district and may order that notice be also sent to any person by mail or served upon him in such manner as the judge may direct. Judge may order notice to be published and mailed

(2) The notice shall contain a short description of the land and a statement of the readiness of the board to pay the sum so certified, shall give the name of the judge who is to determine the compensation under this Part and shall state the time within which the offer is to be accepted, and such other particulars as the judge may direct. Contents of notice

(3) If within the time stated the owner does not notify the board of his acceptance of the sum offered, the judge may proceed *ex parte* on oral evidence to determine the compensation to be paid. 1954, c. 86, s. 63. Determining compensation

**72.** The judge may hear and determine all claims or rights of encumbrancers, lessees, tenants, occupants or other persons as well as those of the owner in respect of the land, provided that in such case the claimant or other person has first received ten clear days notice of the intention to determine his claim or right. 1954, c. 86, s. 64. Judge may determine claims of encumbrancers, etc.

**73.** Where part only of the lot or parcel of land of the owner is required, the judge shall include in the compensation the amount that will, in his opinion, compensate the owner for any damage directly resulting from severance. 1954, c. 86, s. 65. Damages caused by severance

Right of  
desistment

**74.**—(1) A notice of intention to acquire land may be desisted from by the board at any time within twenty-one days after the amount has been determined by the judge by giving written notice to the owner and filing the same with the clerk of the county or district court, but the board shall in that case pay the whole cost of the proceedings and all damages sustained by the owner in consequence of the taking and abandonment and such costs shall be ascertained in a summary way by the judge.

Not to be  
exercised  
more than  
once

(2) The right of desistment shall not be exercised more than once with respect to a parcel of land. 1954, c. 86, s. 66.

Cost of  
arbitration

**75.** The costs of the proceedings are in the discretion of the judge, who may direct to and by whom and in what manner such costs or any part thereof shall be paid, and he may award any costs to be paid as between solicitor and client. 1954, c. 86, s. 67.

Vesting  
order

**76.** If the amount determined by the judge and any costs awarded have been paid in the manner and to the person directed by the judge, he may make a vesting order vesting the land taken in the board and the order may be registered and confers upon the board a good title to the land taken. 1954, c. 86, s. 68.

Compensa-  
tion to be  
paid within  
thirty days

**77.**—(1) Every sum to be paid as compensation shall be paid within thirty days after the determination of the amount to be paid.

Payment  
into court

(2) Where the person entitled thereto is absent or where for any other reason payment of such sum cannot be made pursuant to the award, or if the title to the land or any interest therein or the right to any part of the compensation is in doubt, or if for any other reason the board deems it advisable, the board may pay the sum awarded or any part thereof into the Supreme Court with six months interest thereon. 1954, c. 86, s. 69.

Compensa-  
tion awarded  
to stand in  
the stead of  
land taken

**78.** The compensation for any land that is taken without the consent of the owner stands in the stead of the land, and any claim to or encumbrance upon the land, or any part thereof, is, as against the board, converted into a claim to or upon the compensation or to or upon a like proportion thereof and it is responsible accordingly, whenever it has paid the compensation or any part thereof to a person not entitled to receive the same, saving always its recourse against such person. 1954, c. 86, s. 70.

**79.** In the case of a municipality for which an official arbitrator has been appointed under *The Municipal Arbitrations Act*, the compensation to be paid to the owner shall be determined by the award of the official arbitrator instead of by the judge as hereinbefore provided, and the provisions of that Act *mutatis mutandis* apply. 1954, c. 86, s. 71.

Compensation to be determined by official arbitrator R.S.O. 1960, c. 250

## PART VII

### INSPECTORS

**80.**—(1) The Minister shall determine the number of inspectorates in Ontario, the limits of each inspectorate and the number of provincial inspectors to be appointed. R.S.O. 1950, c. 316, s. 119 (1), *amended*.

Minister to determine number of inspectorates

(2) Provincial inspectors shall be appointed by the Lieutenant Governor, upon the recommendation of the Minister. R.S.O. 1950, c. 316, s. 120 (2), *amended*.

Appointment of provincial inspectors

**81.**—(1) Where the average attendance of pupils in the public schools operated by a board in any year is 2,000 or more but less than 3,000, the board may request the Minister to designate the school section as a municipal inspectorate and if the request is granted the school section shall become a municipal inspectorate on the date designated by the Minister and the board shall employ a public school inspector whose appointment or removal is not effective until approved by the Minister.

Municipal inspector

(2) Where the average attendance of pupils in the public schools operated by a board in any year is 3,000 or more, the school section shall on the 1st day of July of the following year become a municipal inspectorate and the board shall employ an adequate staff of public school inspectors whose appointment or removal is not effective until approved by the Minister. 1960, c. 96, s. 21 (1).

Idem

(3) Where the number of teachers employed in the public and secondary schools operated by a board of education becomes 100, the board may request the Minister to designate the school section as a municipal inspectorate and the board shall appoint one or more public school inspectors, one of whom shall be designated as the chief inspector and superintendent of public schools.

Where 100 teachers are employed in public and secondary schools

(4) Where a municipal inspectorate has been established for a board of education and the board appoints a director of education who is qualified to be a public school inspector, the board shall designate him as the chief inspector of public schools and may appoint one or more public school inspectors,

Where board of education has appointed director of education

one of whom may be designated as superintendent of public schools.

Idem

(5) Where a municipal inspectorate has been established for a board of education and the board appoints a director of education who is not qualified to be a public school inspector, the board shall appoint a chief inspector of public schools who shall also be the superintendent of public schools. 1959, c. 83, s. 10 (1), *amended*.

Secondary school inspectors

(6) Where a high school board or board of education employs 150 or more secondary school teachers, the board may request the Minister to designate the high school district as a municipal inspectorate for secondary school purposes and, if the request is granted, the board shall appoint one or more secondary school inspectors approved by the Minister. 1954, c. 87, s. 36 (1), *amended*.

Appointments to fill vacancies

**82.**—(1) Where the Minister directs the appointment of an additional municipal inspector, or where a vacancy occurs in the office of municipal inspector, an inspector shall be appointed by the board by resolution passed at the first meeting held after receiving the direction or after the vacancy occurs, and the secretary of the board shall forthwith transmit a copy of the resolution, certified by the chairman, to the Minister by registered mail.

Appointment by Minister on neglect of board

(2) Where a board neglects to appoint a municipal inspector within one month after a directive from the Minister has been received, or after a vacancy has occurred, the Minister may make the appointment.

Ratification of appointment by Minister

(3) Every appointment of a municipal inspector is subject to ratification by the Minister, and if the appointment is not so ratified within one year after the date on which the inspector assumes office, it then terminates and the board shall appoint another inspector as provided for by this Act.

Assignment of duties where more than one inspector, etc.

(4) Where a board appoints more than one inspector, the board, with the approval of the Minister,

- (a) may designate one of the inspectors as chief inspector;
- (b) shall designate a district for each inspector; and
- (c) may assign administrative duties, in addition to those prescribed in the regulations, to the chief inspector and to each inspector as the board deems expedient. R.S.O. 1950, c. 316, ss. 119 (2), 120 (1, 3-7); 1954, c. 87, s. 36 (2, 3), *amended*.

Suspension or removal of inspector by Minister

**83.**—(1) An inspector may be suspended or removed from office by the Minister for neglect of duty, misconduct, inefficiency or physical infirmity.



(2) A board may suspend a municipal inspector, appointed by the board, for neglect of duty, misconduct, inefficiency or physical infirmity, and the secretary of the board shall forthwith report the suspension to the Minister in writing, with a statement of the reasons therefor, and the Minister may remove or confirm the suspension or may remove the person from office and the decision of the Minister is final.

Suspension of  
municipal  
inspector  
by board

(3) The Minister may give such direction as to the payment or forfeiture of the salary of the inspector for the period of suspension, as he deems just. R.S.O. 1950, c. 316, s. 121; 1954, c. 87, s. 36 (4-6).

Direction as  
to payment  
or forfeiture  
of salary

(4) No person who has been removed from the office of inspector by the Minister shall be appointed or act as an inspector.

Inspector  
removed  
not to be  
employed

(5) A municipal inspector shall hold the qualifications prescribed by the regulations for a provincial inspector and shall be required to take such courses of training as may be required under the regulations.

Qualification  
of city  
inspector

(6) An inspector shall not accept any other office or employment and may not follow any other profession or calling during his tenure of office as an inspector, without the approval of the Minister. R.S.O. 1950, c. 316, s. 122 (2-4); 1954, c. 87, s. 36 (7, 8), *amended*.

Whole time  
to be given

(7) The salary and travelling and other expenses of a municipal inspector shall be fixed by the board and are payable by the treasurer of the board. R.S.O. 1950, c. 316, s. 124 (2).

Salaries of  
municipal  
inspectors

**84.**—(1) Subject to the regulations, it is the duty of an inspector,

Duties of  
inspectors

- (a) to bring about improvement in the work done in the classrooms by inspiring the teachers and pupils and by sympathetically assisting the teachers to improve their practice;
- (b) to assist and co-operate with school boards to the end that the schools may best serve the needs of the children;
- (c) to visit each school in his inspectorate during the school year and visit each classroom in operation in his inspectorate as often and for such length of time on each occasion as the Minister may direct;
- (d) to prepare a report of each school based on the visits made during the year in the form prescribed by the Minister;

inspire  
teachers  
and pupils

co-operate  
with boards

visit schools

prepare  
reports

report to  
boards

- (e) in the case of an elementary school inspector, to forward to each board in his inspectorate a copy of a report on its schools at least once a year;

annual  
report to  
Minister

- (f) on request, to make a general annual report as to the performance of his duties and the condition of the schools in his inspectorate to the Minister and also to the school board in the case of a municipal inspectorate;

report to  
M.O.H.

- (g) to report to the medical officer of health of the municipality any case in which the school buildings or premises are found to be in an unsanitary condition;

report to the  
Minister

- (h) to furnish the Minister with information respecting any school in his inspectorate whenever required to do so;

recommend  
withholding  
of grants

- (i) to recommend the withholding or any portion of the legislative grant,
- (i) where the school board has failed to operate its schools or to provide education in a school that is accessible to the pupils for less than six months in the year, except where the school has been closed by order of the medical officer of health or local or provincial health authorities on account of the prevalence of any communicable disease,
  - (ii) where the board fails to transmit promptly the annual or other school returns properly completed,
  - (iii) where the board fails to comply with this Act or the regulations,
  - (iv) where the teacher uses or permits to be used as a text-book, any book not authorized by the regulations,

and in every case to report to the board and to the Minister his reasons for so doing;

other  
duties

- (j) to discharge such other duties as may be required by the Minister or the regulations;

transfer to  
successor

- (k) to deliver to his successor on retiring from office, his official correspondence and all school papers in his custody on the order of the Minister.

Responsi-  
bility, to  
Minister

- (2) Every inspector is directly responsible to the Minister for the performance of his duties under subsection 1.

(3) Every municipal inspector is also responsible to the <sup>to board</sup> board by which he was appointed for the administrative duties delegated to him by the board.

(4) Where an inspector requires the testimony of a witness <sup>Power to</sup> as to any alleged fact in any complaint or appeal made to him <sup>take evidence</sup> or to the Minister, he may administer an oath to the witness <sup>on oath</sup> and he has the like power to take evidence and to enforce the attendance of witnesses and the production of documents as a court has in civil cases. R.S.O. 1950, c. 316, s. 123, *amended*.

## PART VIII

### OFFENCES AND PENALTIES

**85.** Any person who wilfully makes a false declaration of <sup>False</sup> his right to vote at a school meeting or at an election of <sup>declaration</sup> trustees is guilty of an offence and on summary conviction is <sup>of right</sup> liable to a fine of not more than \$25. 1954, c. 86, s. 72.

**86.** Any person who wilfully interrupts or disquiets the <sup>Disturbances</sup> proceedings of a school meeting or a school by rude or indecent behaviour or by making a noise either in the place where the meeting is held or in the school or so near thereto as to interfere with the proceedings of the meeting or the order of exercises of the school is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. 1954, c. 86, s. 73.

**87.—(1)** A trustee who refuses to serve after being elected <sup>Refusal</sup> or appointed with his own consent is guilty of an offence and <sup>to serve</sup> on summary conviction is liable to a fine of \$25.

(2) A trustee who has been elected or appointed and has <sup>Failure to</sup> not refused to accept the office and who at any time refuses <sup>perform</sup> or neglects his duties as trustee is guilty of an offence and <sup>duties</sup> on summary conviction is liable to a fine of not more than \$25.

(3) A trustee who sits or votes at any meeting of the board <sup>Acting</sup> after becoming disqualified is guilty of an offence and on sum- <sup>while dis-</sup> mary conviction is liable to a fine of not more than \$25 for <sup>qualified</sup> every meeting at which he so sits or votes. 1954, c. 86, s. 74.

**88.** The chairman of a rural school meeting who neglects <sup>Failure to</sup> to transmit to the inspector concerned a minute of the pro- <sup>transmit</sup> ceedings of any annual or other rural school meeting over <sup>minutes</sup> which he has presided, within ten days after the holding of the meeting, is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. 1954, c. 86, s. 75.

Information  
to auditors

**89.** Every school board and its secretary and treasurer shall furnish the auditors with any papers or information in its or his power that may be required of it or him relating to the school accounts and a member of the board, or a secretary or treasurer, who neglects or refuses so to do is guilty of an offence and on summary conviction is liable to a fine of not more than \$25, but no member is liable if he proves that he made reasonable efforts to procure the furnishing of the papers or information. 1954, c. 86, s. 76.

False  
reports and  
registers

**90.** Every trustee who knowingly signs a false report and every teacher who keeps a false school register or makes a false return is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. 1954, c. 86, s. 77.

Failure to  
call school  
meeting

**91.** If an annual or other rural public school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give notice is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. 1954, c. 86, s. 78.

School maps

R.S.O. 1960,  
c. 330

**92.—(1)** If a township clerk neglects or refuses to prepare and furnish the map of the school sections of his municipality as required by *The Public Schools Act*, or if he neglects for one month to make any return required by that Act, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$25.

Idem

R.S.O. 1960,  
c. 362

**(2)** If a county clerk neglects or refuses to prepare the map of the county showing the boundaries of the high school districts therein as required by *The Secondary Schools and Boards of Education Act*, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. 1954, c. 86, s. 79.

Delivery up  
of books  
and money

**93.—(1)** A treasurer, secretary or secretary-treasurer, or a person having been a treasurer, secretary or secretary-treasurer, and a trustee or other person who has in his possession any book, paper, chattel or money that came into his possession as such treasurer, secretary, secretary-treasurer, trustee or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same to the person and in the manner directed by the board or by other competent authority.

Summons  
for appear-  
ance

**(2)** Upon application to the judge of the county or district court by the board, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the treasurer, secretary, secretary-treasurer, trustee or person to appear before him at a time and place appointed by him.

(3) A bailiff of a division court, upon being required so to do by the judge, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a grown-up person at his residence. Service of summons

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of the opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow. Order to account

(5) In the event of non-compliance with the order, the judge may order such person to be forthwith arrested by the sheriff of any county or district in which he may be found, and to be committed to the jail of the county or district in which he resides, there to remain without bail until the judge is satisfied that he has delivered up, accounted for or paid over the book, paper, chattel or money in the manner directed by the board or other competent authority. Effect of non-compliance with judge's order

(6) Upon proof of his having so done, the judge shall make an order for his discharge and he shall be discharged accordingly. Discharge on complying with order

(7) Upon proof that the person has done all in his power to deliver up, account for or pay over such book, paper, chattel or money as directed, the judge may order his discharge on such terms or conditions as he may deem just. Discharge on terms

(8) Such proceedings do not impair or affect any other remedy that the board or other competent authority may have against the person complained against or against any other person. 1954, c. 86, s. 80. Other remedy not affected

**94.**—(1) Section 93 applies to the case of any person who has in his possession any books, paper, chattel or money that came into his possession as secretary, or treasurer, or member, or otherwise, of a board that has been dissolved, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money to the person and in the manner provided in or under the Act under which the board is dissolved and failing any such provision as directed by the Minister, and in default of his so doing, proceedings may be taken against him by two ratepayers in the same manner as in the case provided for by section 93, and that section *mutatis mutandis* applies. Compelling delivery of books, money, etc., on dissolution of school corporation

Application  
of subs. 1

(2) Subsection 1 applies to every person who has received from such secretary, treasurer, trustee or other person any book, paper, chattel or money, which by subsection 1 it is declared to be the duty of such secretary, treasurer, trustee or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. 1954, c. 86, s. 81.

No  
inspector,  
trustee,  
teacher, etc.,  
to act as  
agent for  
the sale of  
books, maps,  
etc.

**95.**—(1) No teacher, trustee, inspector or other person officially connected with the Department or with any elementary or secondary school or with any teachers' college or other institution that is under the management or control of the Minister, shall sell or become or act as agent for any person to sell or to promote in any way the sale of any school library, prize or text-book, map, chart, school apparatus, furniture, stationery or other article for the use of any elementary or secondary school, teachers' college or other institution aforesaid or for the use of any pupil thereof, nor shall he receive directly or indirectly compensation or other remuneration or the equivalent for so doing.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable, if he is a teacher to a fine of not more than \$50, if he is a trustee to a fine of not more than \$100, if he is an inspector to a fine of not more than \$500 and if he is any other person so officially connected to a fine of not more than \$100.

Idem

(3) Any person, firm or corporation and any agent of a person, firm or corporation who employs a teacher, trustee, inspector or any other person officially connected with the Department or with any elementary or secondary school or with any teachers' college or other institution that is under the management or control of the Minister, to sell or become or act as agent for or to promote in any way the sale of any school library, prize or text-book, map, chart, school apparatus, furniture, stationery or other article for the use of any elementary or secondary school, teachers' college or other institution aforesaid, or who directly or indirectly gives or pays to any such teacher, trustee, inspector or other person compensation or remuneration or the equivalent thereof is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

Gifts, etc.,  
to be  
*prima facie*  
evidence

(4) Any gift or payment made to a teacher, trustee, inspector or other person so officially connected by any person, firm or corporation interested either as principal or agent in any such sale is *prima facie* evidence of a contravention of this section.

Consent of  
Attorney  
General to  
prosecution

(5) No prosecution for any of the penalties mentioned in this section shall be instituted without the written consent of the Attorney General or the Deputy Attorney General.

(6) This section does not apply to sales made by a trustee who is a merchant or bookseller in the ordinary and regular course of his business as such and made at his shop or place of business. 1954, c. 86, s. 82. Sale in ordinary course of business excepted

## PART IX

### MISCELLANEOUS

**96.**—(1) Nothing in section 38 affects any pension plan established and approved by the Minister before the 6th day of April, 1954 under section 39 of *The High Schools Act*, section 129 of *The Public Schools Act* or section 83 of *The Separate Schools Act*. Saving R.S.O. 1950, cc. 165, 316, 356

(2) Nothing in section 39 affects any sick leave credit plan established and approved by the Minister before the 6th day of April, 1954 under section 40 of *The High Schools Act*, section 130 of *The Public Schools Act* or section 84 of *The Separate Schools Act*. Idem

(3) Nothing in section 40 affects any retirement allowance granted before the 6th day of April, 1954 under section 60 of *The High Schools Act* or section 128 of *The Public Schools Act*. 1954, c. 86, s. 83. Idem

**97.**—(1) Except as provided in subsection 2, where a trailer is located in a trailer camp or elsewhere in a municipality and licence fees are collected for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of the municipality shall pay, Share of licence fees for trailers to be paid to boards

(a) to the public school board having jurisdiction in the school section in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for public school purposes, including township grants, bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes; and

(b) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for secondary school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes.

(2) Where the occupant of a trailer has given to the clerk of the municipality in which the trailer is located a notice Idem

in writing stating that he is a Roman Catholic and desires to be a supporter of a separate school that is situated within three miles of the trailer and within the municipality or a municipality contiguous thereto, the council of the municipality shall pay,

- (a) to the board of the separate school a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for separate school purposes in that part of the municipality that is within three miles of the separate school bears to the total of the rates levied in such part of the municipality for separate and secondary school purposes and municipal purposes; and
- (b) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for secondary school purposes in such district bears to the total of the rates levied for separate and secondary school purposes and municipal purposes in that part of the district within three miles of the separate school.

Application  
to  
municipally-  
operated  
camps

- (3) This section does not apply to trailer camps and trailer parks operated by a municipality. 1957, c. 110, s. 4.

Trailer fee  
in public  
school  
section in  
unorganized  
territory

**98.**—(1) Except as provided in subsection 2, the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a public school section shall pay to the public school board, on or before the first day of each month, a fee of \$3 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Trailer fee  
re separate  
school in  
unorganized  
territory

(2) Where the occupant of a trailer that is located in territory without municipal organization is a Roman Catholic and signifies in writing to the separate school board and if the trailer is located in a public school section to the secretary of the public school board that he is a Roman Catholic and wishes to be a supporter of the separate school that is within three miles of the trailer, the owner or lessee of the trailer shall pay to the separate school board, on or before the first day of each month, a fee of \$3 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Trailer fee  
in secondary  
school  
district in  
unorganized  
territory

(3) The owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a secondary school district shall pay to the secondary



school board, on or before the first day of each month, a fee of \$2 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

(4) No person is required to pay a fee under this section until he has been notified in writing by the secretary of the board concerned or the tax collector that he is liable to pay such fee and upon receipt of such notice the person shall forthwith pay all fees for which he has been made liable under this section before receipt of the notice and shall thereafter pay fees in accordance with subsections 1 to 3. <sup>Notice</sup>

(5) Every notice under this section shall make reference to this section and shall specify, <sup>Content of notice</sup>

- (a) the amount of fees for which the person is liable on receipt of the notice;
- (b) the amount of the monthly fee to be paid thereafter;
- (c) the date by which payment is required to be made;
- (d) the place at which payment may be made; and
- (e) the fine provided under this section.

(6) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which he is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 and each day that this subsection is contravened shall be deemed to constitute a separate offence. 1958, c. 97, s. 8. <sup>Offence</sup>

**99.**—(1) Arbitrators acting under *The Public Schools Act*, *The Separate Schools Act*, *The Secondary Schools and Boards of Education Act* or this Act shall send a copy of their award forthwith after the making thereof to the secretary of the school board and to the clerk of each municipality affected. <sup>Arbitrators to send copy of award to board, etc. R.S.O. 1960, cc. 330, 368, 362</sup>

(2) Such arbitrators shall determine the liabilities of the parties concerned for the cost of the arbitration and such determination is final and conclusive. <sup>Liability of parties for costs</sup>

(3) Each arbitrator, except an arbitrator under Part VI, shall be paid a fee, <sup>Fees</sup>

- (a) in the case of the Ontario Municipal Board, as determined by the Board;
- (b) in the case of a judge, at the rate of \$15 for each sitting of a half-day or fraction thereof;

- (c) in the case of an arbitrator other than a school inspector, judge or member of the Ontario Municipal Board, at the rate of \$10 for each sitting of a half-day or fraction thereof.

Application

- (4) This section does not apply to a Board of Reference or the members thereof. 1958, c. 97, s. 9.

Application  
to assessors

- (5) This section applies also to assessors who meet to apportion costs between parts of a union school section, parts of a township school area or parts of a secondary school district. 1960, c. 107, s. 6.
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## CHAPTER 362

**The Secondary Schools and Boards of  
Education Act**

1.—(1) Where reference is made in this Act to the popula-<sup>Population</sup>tion of a county or municipality or a portion thereof, the population shall be determined by reference to the last revised assessment roll of the municipality or municipalities concerned, and the certificate of the clerk of a municipality with respect to such population or number is conclusive. 1954, c. 87, s. 1 (2).

(2) A person is a resident pupil with respect to a secondary<sup>Resident pupils</sup> school district,

- (a) if he resides with his parent or guardian in the secondary school district; or
- (b) if he or his parent or guardian is assessed in the secondary school district as an owner or for business assessment or as an owner and for business assessment for an amount at least equal to the total assessment of the property taxable for secondary school purposes in the secondary school district divided by the number of names that are designated on the assessment rolls as owners of such property,

but a person is not a resident pupil under clause *a* if he resides with his parent or guardian on land that is exempt from taxation for school purposes and neither he nor his parent or guardian is assessed for and pays taxes for school purposes in the secondary school district. 1954, c. 87, s. 1 (3); 1959, c. 93, s. 1 (1).

(3) A person is a county pupil of a county,

<sup>County pupils</sup>

- (a) if he resides with his parent or guardian in that part of the county that is not within a secondary school district; or
- (b) if he or his parent or guardian is assessed in the part of the county that is not within a secondary school district as an owner or for business assessment or as an owner and for business assessment for an amount at least equal to the total assessment of the taxable property in such part of the county divided by the number of names that are designated on the assessment rolls as owners of such property,

but a person is not a county pupil under clause *a* if he resides with his parent or guardian on land that is exempt from taxation for school purposes and neither he nor his parent or guardian is assessed for and pays taxes for school purposes in a municipality in the county. 1954, c. 87, s. 1 (4); 1959, c. 93, s. 1 (2).

## PART I

### CONTINUATION SCHOOLS

Establish-  
ment by one  
board

2.—(1) Subject to the approval of the Minister first being obtained, a public or separate school board may establish and maintain a continuation school with a staff of at least two full-time teachers.

Board

(2) A continuation school established under subsection 1 shall be under the control and management of a board composed of the members of the board by which it is established, and the board is a corporation by the name of "The Board of Trustees of the Continuation School of.....".

Establish-  
ment by two  
or more  
boards

(3) Subject to the approval of the Minister first being obtained, agreements may be entered into by two or more public school boards or by one or more of such boards and one or more separate school boards for the establishment and maintenance of a continuation school to be conducted in some place agreed upon by the boards.

Agreement

(4) An agreement under subsection 3 shall specify the proportion of the cost of the establishment and maintenance of the continuation school to be levied on the property liable to assessment and taxation for the purposes of each of the boards concerned or shall provide for the manner in which such proportion shall be determined.

Board

(5) A continuation school established under subsection 3 shall be under the control and management of a board composed of such number of the members of each of the boards by which it is established, not exceeding two-thirds of the members of any such board, as the agreement provides, and the board is a corporation by the name of "The Board of Trustees of the Continuation School of....." (*inserting a name selected by the board and approved by the Minister*).

Time for  
appoint-  
ments

(6) Each of the boards by which a continuation school is established under subsection 3 shall make its appointments to the continuation school board at its first regular meeting in each year.

Amendment  
of agreement

(7) An agreement under subsection 3 may be amended from time to time by further agreements among the boards concerned with respect to,

(a) the apportionment of the cost of the establishment and maintenance of the continuation school or the manner in which the apportionment shall be determined; and

(b) the number of members of each of the boards concerned who shall be members of the continuation school board.

(8) In addition to the members of the continuation school board provided for under subsection 2 or 5, County appointments to board

(a) where the whole of a continuation school district is within one county, the council of the county may appoint one member who shall hold office for one year; and

(b) where the continuation school district comprises parts of two or more counties, the council of each such county may appoint one member who shall hold office for one year.

(9) Any ratepayer of a municipality in a county who, Qualifications

(a) resides in the county, whether or not he resides in the continuation school district;

(b) is a British subject;

(c) has attained the age of twenty-one years; and

(d) is not a member of a municipal council or an officer of a municipality or county or otherwise disqualified,

is qualified to be appointed as a member of the continuation school board by the council of the county. 1954, c. 87, s. 2.

**3.—**(1) A continuation school shall not be established or maintained in any part of a high school district. Continuation school prohibited in high school district

(2) Where a high school district includes within its limits any property within a continuation school district, such property shall not be assessed for the purposes of the continuation school. 1954, c. 87, s. 3. Overlapping high and continuation district boundaries

**4.—**(1) Subject to section 5, all sums required for the support of a continuation school, after deducting the revenues derived from legislative grants, any county or other municipality, fees, and from all other sources, shall be provided for by levies, Taxation

(a) where the school is established by one or more public school boards, on the property liable to assessment and taxation for public school purposes in the school section or sections;

- (b) where the school is established by a separate school board, on the property liable to assessment and taxation for the purposes of the separate school or schools under the jurisdiction of the separate school board;
- (c) where the school is established by one or more public school boards and one or more separate school boards, on the property liable to assessment and taxation for public school purposes in the school section or sections and on the property liable to assessment and taxation for the purposes of the separate school or schools under the jurisdiction of the separate school board or boards.

Apportion-  
ment of  
cost in  
union school  
section

R.S.O. 1960,  
c. 330

Estimates

(2) Where the board of a union school section establishes a continuation school by itself or by agreement with another board or boards, the council of each municipality which, or part of which, is included in the union school section shall levy and collect upon the taxable property in the union school section within its jurisdiction its share of the expense of establishing and maintaining the continuation school according to the equalized assessment, as provided by *The Public Schools Act*, of the part of the union school section situated in the municipality.

(3) A continuation school board shall prepare and submit to the municipal council or councils liable under this Act, on or before the date prescribed by the council or councils, estimates for the current year of all sums required to be provided by the council or councils to meet expenditures for the continuation school and for the payment of fees of resident pupils attending secondary schools outside the continuation school district that they have the right to attend as resident pupils, and such estimates shall include and make due allowance for the amount of any surplus or deficit remaining at the end of the preceding year and the revenues estimated to be derived from legislative grants, any county or other municipality, fees, and from all other sources. 1954, c. 87, s. 4.

Board and  
maintenance  
where town-  
ship school  
area absorbs  
continuation  
school

5.—(1) Where a township school area absorbs a former school section in which a continuation school has been established under subsection 1 of section 2, or two or more former school sections the boards of which have established a continuation school by agreement under subsection 3 of section 2, then at the option of the township council and subject to the approval of the Minister,

- (a) the members of the township school area board shall constitute the continuation school board, and the cost of maintaining the continuation school

shall be provided by levies on the property liable to assessment for public school purposes in the township school area; or

- (b) trustees shall be elected annually for the continuation school board by the electors of the former school section or sections in the manner provided in *The Public Schools Act* for the election of rural school trustees and the continuation school board shall be composed of,

R.S.O. 1960,  
c. 330

- (i) where only one former school section is absorbed, three trustees, and
- (ii) where two or more former school sections are absorbed, two trustees from each such former school section,

and the cost of maintaining the continuation school shall be provided by levies on the property liable to assessment for public school purposes in the former school section or sections.

(2) Where a township school area absorbs a former school section or sections the board or boards of which have established a continuation school by agreement under subsection 3 of section 2 in conjunction with one or more separate school boards, then at the option of the township council and subject to the approval of the Minister,

- (a) the members of the township school area board and two members appointed by each separate school board that is a party to the agreement shall constitute the continuation school board, and the cost of maintaining the continuation school shall be provided by levies on the property liable to assessment for public school purposes in the township school area and on the property liable to assessment for the purposes of the separate school or schools under the jurisdiction of the separate school board or boards; or
- (b) trustees shall be elected for the continuation school board by the electors of the former school section or sections in the manner provided in *The Public Schools Act* for the election of rural school trustees and shall be appointed by the separate school board or boards, and the continuation school board shall be composed of,
  - (i) two trustees to be elected annually from each former school section so absorbed, and
  - (ii) two trustees to be appointed annually from

among its members by each separate school board that is a party to the agreement,

and the cost of maintaining the continuation school shall be provided by levies on the property liable to assessment for public school purposes in the former school section or sections and on the property liable to assessment for the purposes of the separate school or schools under the jurisdiction of the separate school board or boards.

Where all  
school  
sections not  
absorbed

R.S.O. 1960,  
c. 330

(3) Where a township school area absorbs some but not all of the school sections the boards of which have established a continuation school by agreement under subsection 3 of section 2, whether in conjunction with one or more separate school boards or not, trustees shall be elected for the continuation school board by the electors of the former school section or sections in the manner provided in *The Public Schools Act* for the election of rural school trustees and shall be appointed by each separate school board that is a party to the agreement, and the continuation school board shall be composed of,

- (a) two trustees to be elected annually from each former school section so absorbed;
- (b) two trustees to be appointed annually from among its members by the board of each other school section that is a party to the agreement and is not absorbed in the township school area; and
- (c) two trustees to be appointed annually from among its members by each separate school board that is a party to the agreement.

Where  
section in  
which school  
established  
not absorbed

(4) Notwithstanding subsection 3, where the school section in which the continuation school was established by agreement under subsection 3 of section 2 is not absorbed in the township school area, the township council may, subject to the approval of the Minister, provide that the continuation school board shall be composed of,

- (a) one trustee to be elected annually by the electors of each former school section that is a party to the agreement and is absorbed in the township school area, in the manner provided in *The Public Schools Act* for the election of rural school trustees;
- (b) two trustees to be appointed annually from among its members by the board of the school section that is a party to the agreement and in which the continuation school is situated;



- (c) one trustee to be appointed annually from among its members by the board of each other school section that is a party to the agreement and is not absorbed in the township school area; and
- (d) one trustee to be appointed annually from among its members by each separate school board, if any, that is a party to the agreement.

(5) Where the continuation school board is constituted as provided in subsection 3 or 4, the cost of maintaining the continuation school shall be provided by levies, <sup>Cost of maintenance</sup>

- (a) on the property liable to assessment for public school purposes in each school section that is a party to the agreement and is not absorbed in the township school area;
- (b) on the property liable to assessment for public school purposes in each former school section that is a party to the agreement and is absorbed in the township school area; and
- (c) on the property liable to assessment for the purposes of the separate school or schools under the jurisdiction of each separate school board, if any, that is a party to the agreement.

(6) Where the township council decides that the continuation school board shall be composed as provided in clause *b* of subsection 1, clause *b* of subsection 2, or subsection 3 or 4, <sup>Elections</sup>

- (a) it shall notify the secretary of the continuation school board who shall call meetings of the electors of each former school section absorbed in the township school area for the purpose of electing one or more trustees, as the case requires, from each such former school section who shall hold office for one year;
- (b) the cost of such elections shall be borne by the continuation school board; and
- (c) upon a trustee being elected under clause *a*, the chairman of the meeting at which the trustee was elected shall notify the secretary of the continuation school board of the name of the trustee. 1954, c. 87, s. 5.

**6.—(1)** Subject to the approval of the Minister, the board of a continuation school established under subsection 1 of section 2 may by resolution dissolve the continuation school, <sup>Dissolution of continuation school</sup>

whereupon all the assets and liabilities of the board, subject to subsection 4, become assets and liabilities of the board by which it was established.

Idem

(2) Subject to the approval of the Minister, the board of a continuation school established by agreement under subsection 3 of section 2 may by resolution dissolve the continuation school, whereupon all the assets and liabilities of the board, subject to subsection 4, become assets and liabilities of the respective boards by which it was established according to the terms of the agreement or as may be agreed upon among the boards concerned.

Idem

(3) Where the board of a continuation school ceases to operate the school but does not pass a resolution dissolving the school under subsection 1 or 2, the Minister on the report of the inspector concerned may direct the dissolution of the school as of the 31st day of December in the year in which the school is closed, and the board shall be deemed to have passed a resolution under subsection 1 or 2, as the case may be, with the approval of the Minister, dissolving the school as of that date.

Where continuation school district absorbed as part of high school district

(4) Where a continuation school district is absorbed into a high school district, the continuation school shall be dissolved as of the date of the absorption, and the high school board and the board or boards by which the continuation school was maintained shall each appoint a representative who, with the clerk of each municipality which, or any part of which, was included in the continuation school district, shall be arbitrators to value and determine the rights and obligations of the boards and municipalities with respect to,

(a) the assets and liabilities of the continuation school board; and

(b) the disposition of the property of the board.

Arbitration and report

(5) The secretary of the high school board of the district in which the former continuation school was located shall, within thirty days of such absorption, call a meeting of the arbitrators designated under subsection 4, who shall forthwith proceed to determine the rights and obligations of the respective boards and municipalities and report their findings to the secretary of the high school board and to the Minister.

Appeal

(6) If the high school board, or any board by which the continuation school was maintained, or any municipality concerned, disputes the award of the arbitrators, the board or municipality shall refer the matter to the county judge whose decision is final.

(7) For the purpose of this section, the members of the continuation school board in office at the date of the dissolution shall continue to function as a continuation school board until,

- (a) the assets and liabilities of the board have been distributed as provided in subsection 1 or 2; or
- (b) the award of the arbitrators, or the decision of the judge on appeal therefrom, has been made under subsection 4 and the assets, liabilities and property of the board have been disposed of in accordance with the award or decision.

(8) Where a board continues to function under subsection 7, the accounts of the board are subject to audit in the same manner as before the dissolution. 1954, c. 87, s. 6.

7.—(1) A continuation school board has, in respect of the continuation school, all the powers conferred on public or separate school boards as to acquiring school sites, erecting buildings and additions to buildings, and providing equipment for and paying the cost of permanent improvements and of the maintenance of such continuation schools.

(2) Such of the provisions of *The Public Schools Act* as are applicable and are not inconsistent with this Part shall be read as part of this Part. 1954, c. 87, s. 7.

## PART II

### HIGH SCHOOLS

8.—(1) No high school district shall be established, nor shall the boundaries of an existing high school district be altered, so as to result in a district in which all the municipalities, or parts of municipalities, included in the district are not adjoining, or to result in a district comprising less than sixteen school sections and former school sections, unless the enrolment during the preceding calendar year of public and separate school pupils in the area to be included in the district is 600 or more, or the district is established under subsection 5 of section 12, or is on an island or in a territorial district.

(2) During the month of December in each year, every county clerk shall prepare a map of the county showing the boundaries of each high school district within or partly within the county as they will exist on the 1st day of January of the following year.

(3) Where a new high school district is established in a county or the boundaries of an existing high school district in a

county are altered, the county clerk shall forward a copy of the by-law establishing or altering the district, not later than thirty days after the passing of the by-law, to,

- (a) the Minister;
- (b) the secretary of the board of the new district or of the district of which the boundaries are altered; and
- (c) the clerk of each municipality which or any part of which is situated within the new district or the district of which the boundaries are altered. 1954, c. 87, s. 8, *amended*.

Existing  
districts  
confirmed

**9.** Whenever a high school district has existed in fact for three months or more before the 1st day of May, 1954, and whether it has been formed in accordance with the law or not, it shall be deemed to have been legally formed and shall continue to exist, subject, however, to the provisions of this Act as far as applicable, as if the district had been formed thereunder, unless in the meantime proceedings have been taken calling in question the legal status of the district and notice thereof has been given to the persons who ought, according to the practice of the court in which the proceedings are taken, to be served with notice thereof, and such proceedings result in its being determined that the district has not been legally formed. 1954, c. 87, s. 9.

Interpre-  
tation

**10.** In sections 8 and 11 to 15, "adjoining" means touching at any point, and,

- (a) where more than two counties are concerned, they shall be deemed to be adjoining if each county adjoins one of the other counties; and
- (b) for the purposes of a high school district comprising more than two municipalities or parts of municipalities, the municipalities or parts shall be deemed to be adjoining if each municipality, and each part of a municipality, included in the district adjoins some other municipality, or part of a municipality, included in the district. 1954, c. 87, s. 10.

Cities and  
separated  
towns to be  
districts

**11.—(1)** Subject to subsection 2, every city and separated town is a high school district.

Discontinu-  
ance of  
district

(2) Subject to the approval of the Minister, the council of a city or separated town in a county may by by-law discontinue its high school district, and,

- (a) provide for the inclusion of the city or separated town in a new high school district; or

- (b) provide for the addition of the city or separated town to an existing high school district.

(3) Subject to the approval of the Minister, the council of a city or separated town in a county may by by-law provide that the whole or part of a municipality or municipalities adjoining the city or separated town be added to the high school district of the city or separated town. 1954, c. 87, s. 11. Increasing district

**12.**—(1) Subject to the approval of the Minister first being obtained, the council of a county or the councils of two or more adjoining counties may by by-law establish the whole or any part of a municipality or the whole or parts of two or more adjoining municipalities situated within the county or counties as a new high school district, and the council of a county or the councils of two or more adjoining counties may in like manner discontinue any high school district already established within the county or counties and shall add the municipalities or parts of municipalities comprised in the district so discontinued to one or more other high school districts or include such municipalities or parts in one or more new high school districts. 1954, c. 87, s. 12 (1). Establishment and discontinuance of districts

(2) Where two continuation schools have been established in a village, the council of the county in which the village is situated may include the village in a high school district, and, notwithstanding the provisions of section 3, may by by-law provide that the property liable to assessment and taxation for the purposes of one of the continuation schools in any year may continue to be assessed and taxed for the purposes of a continuation school and excluded from assessment and taxation for high school purposes in such year. 1956, c. 80, s. 1. Village with two continuation schools may be included in district

(3) Subject to the approval of the Minister first being obtained, the council of a municipality or the councils of two or more adjoining municipalities in a territorial district may pass by-laws establishing the whole or any part of the municipality or municipalities as a new high school district. 1954, c. 87, s. 12 (2). In territorial districts

(4) The Lieutenant Governor in Council may establish any area in territory without municipal organization, or any such area and an adjoining municipality or municipalities or any part or parts thereof, as a high school district, and may discontinue or decrease or increase the area of any such high school district, and if any such high school district is discontinued, or the area is decreased or increased, the assets and liabilities of the board shall be adjusted or disposed of as determined by the Ontario Municipal Board. 1958, c. 98, s. 1. In unorganized territory

(5) Where, in the opinion of the Minister, it is desirable to establish and maintain a high school on lands held by the On exempt land

Crown in right of Canada or Ontario, or an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may designate any portion of such lands as a high school district, and may appoint as members of the board such persons as he may deem proper, and the board so appointed is a corporation by the name indicated in the order establishing the high school district, and has all the authority of a board of high school trustees for the purposes of this Act.

First meeting of new board

(6) The clerk of the municipality shall call the first meeting of a new board, but where the new high school district extends beyond one municipality the clerk of the municipality having the largest population within the district shall call the first meeting. 1954, c. 87, s. 12 (4, 5).

Enlargement of districts

**13.**—(1) Subject to the approval of the Minister, the council of a county or the councils of two or more adjoining counties, in one or more of which a high school district has been established, may by by-law provide that the whole or any part of any municipality or municipalities situated within the county or counties and adjoining the high school district shall be added to the high school district.

In territorial districts

(2) Subject to the approval of the Minister, the council of a municipality or the councils of two or more adjoining municipalities, in a territorial district, may pass by-laws providing that the whole or any part of such municipality or municipalities shall be added to a high school district that has been established in one or more of such municipalities. 1954, c. 87, s. 13 (1, 2).

High school district of town and adjoining municipality

(3) Notwithstanding subsection 2, the council of a town in a territorial district in which town a high school district has been established, and the council of an adjoining municipality that has a population of 2,000 or more in which a high school district has not been established, shall, upon the request of the council of either the town or the municipality, pass by-laws providing that the adjoining municipality shall be added to the high school district of the town that it adjoins. 1955, c. 76, s. 2.

Assets and liabilities where high school district enlarged

**14.** Where a high school district is enlarged, the assets of the board of the district and of any high school district added thereto are forthwith vested in and the liabilities thereof forthwith become the liabilities of the board of the enlarged high school district, unless otherwise provided by the by-law or by-laws or by a by-law or by-laws subsequently passed with the approval of the Minister. 1960, c. 108, s. 3.

**15.**—(1) Subject to the approval of the Minister, the council of a county or the councils of two or more adjoining counties that has or have established a high school district may by by-law detach from the high school district the whole or any part of any municipality that forms part thereof and shall add the municipality or part to another high school district or establish a new high school district including the municipality or part that has been detached. 1954, c. 87, s. 14 (1). <sup>Decreasing districts</sup>

(2) Subject to the approval of the Minister, where a high school district has been established in a territorial district, the whole or any part of a municipality that forms part of the high school district may be detached from the high school district by a by-law passed by each municipality the whole or part of which is included in the high school district, provided that the municipality or part detached is added to another high school district or established into a new high school district by a by-law passed by each municipality the whole or part of which is to be included in the high school district as enlarged by the proposed addition or in the proposed new high school district. 1957, c. 111, s. 1 (1). <sup>Idem</sup>

(3) Where a municipality or part of a municipality is detached from a high school district under subsection 1 or 2, such municipality or part is not relieved from any rates imposed for the payment of debentures or other debts incurred while it formed part of the district unless otherwise provided by the by-law or by-laws or by a by-law or by-laws subsequently passed with the approval of the Minister. 1954, c. 87, s. 14 (2); 1957, c. 111, s. 1 (2). <sup>Rates for debt</sup>

**16.**—(1) No by-law,

- (a) passed under subsection 1 of section 12 establishing a new high school district, by which a city or separated town is included in the high school district; or
- (b) passed under subsection 1 of section 13 adding a city or separated town to an existing high school district,

<sup>Conditions re by-laws</sup>

is effectual unless the council of the city or separated town passes a by-law under subsection 2 of section 11.

(2) No by-law passed under subsection 3 of section 11 adding the whole or part of one or more municipalities adjoining a city or separated town to the high school district of the city or separated town is effectual unless the council of the county or the councils of the counties, in which the municipality or municipalities to be added are situated, pass a by-law or by-laws under subsection 1 of section 12 or subsection 1 of section 13. 1954, c. 87, s. 15. <sup>Idem</sup>

Dis-  
continuing  
or decreasing  
districts  
that include  
a city or  
separated  
town

**17.** No by-law discontinuing, or detaching the whole or any part of a municipality from, a high school district that includes a city or separated town is effectual unless it is approved by a by-law passed before the 1st day of July in the same year by the council of each city and separated town in the high school district. 1959, c. 93, s. 2.

Assets and  
liabilities  
of dis-  
continued  
boards

**18.** Where a high school district is discontinued and the municipality or municipalities comprising the district form part of a new high school district or are included in an enlarged high school district, the assets of the board of the discontinued district forthwith vest in and the liabilities thereof forthwith become the liabilities of the board of the new or enlarged high school district, as the case may be, unless otherwise provided by the by-law or by-laws discontinuing the high school district or by a by-law or by-laws subsequently passed with the approval of the Minister. 1954, c. 87, s. 16.

Continuance  
of board for  
disposition  
of assets and  
liabilities

**19.** Where a high school district is discontinued, enlarged or decreased, the members of the board in office at the date of the discontinuance, enlargement or decrease shall continue to function as a high school board for the purpose of the disposition of assets and liabilities until such assets and liabilities have been disposed of as provided by the by-law or by-laws discontinuing, enlarging or decreasing the district or by a subsequent by-law or by-laws passed with the approval of the Minister, and the accounts of the board are subject to audit in the same manner as before the discontinuance, enlargement or decrease. 1954, c. 87, s. 17.

Time of  
passing and  
effective  
date of  
by-laws re  
districts

**20.** A by-law under section 11, 12, 13 or 15 shall be passed on or before the 1st day of July in any year, and shall take effect on the first day of January next following its passing unless otherwise provided therein. 1954, c. 87, s. 18.

Qualification  
of members

**21.—(1)** Any ratepayer of a municipality which, or any part of which, is included in a high school district who,

- (a) is assessed in the high school district;
- (b) is a British subject;
- (c) has attained the age of twenty-one years;
- (d) resides in the high school district or within five miles of the boundaries thereof; and
- (e) is not a member of a municipal council or the clerk or treasurer of a municipality or county or a member of any other school board or otherwise disqualified,



is qualified to be a member of the high school board of the district. 1954, c. 87, s. 19 (1); 1958, c. 98, s. 2.

(2) Notwithstanding subsection 1, in the case of an appointment by a county council, any ratepayer of a municipality in the county who resides in the county and is qualified under clauses *b*, *c* and *e* of subsection 1 is qualified to be a member of the high school board. County appointees

(3) A person is not eligible to be appointed as a trustee or to sit or vote as a member of the high school board if any portion of the taxes levied for school purposes for the preceding year or years on the property in respect of which he qualifies is overdue or unpaid at the time of his appointment, but this subsection does not disqualify a person who is a tenant of such property if the taxes in respect thereof are, under the terms of the tenancy, payable by the owner of the property. 1954, c. 87, s. 19 (2, 3). Non-payment of taxes

(4) In this section, "ratepayer" means a person whose name is entered on the last revised assessment roll. 1956, c. 80, s. 2. Interpretation

**22.—**(1) Where a high school district comprises one or more municipalities not separated from the county for municipal purposes, or one or more municipalities in a territorial district, trustees shall be appointed by the council or councils of the municipality or municipalities included in the district, Appointment of trustees by municipalities

(a) where the district comprises only one municipality, the council shall appoint three trustees, one of whom shall retire each year;

(b) where the district comprises two municipalities,

(i) the council of a municipality having a population within the district of 3,000 or more shall appoint three trustees, and

(ii) the council of a municipality having a population within the district of less than 3,000 shall appoint two trustees,

one of whom in each case shall retire each year;

(c) where the district comprises more than two municipalities,

(i) the council of a municipality having a population within the district of 6,000 or more shall appoint three trustees, one of whom shall retire each year,

- (ii) the council of a municipality having a population within the district of 3,000 but less than 6,000 shall appoint two trustees, one of whom shall retire each year, and
- (iii) the council of a municipality having a population within the district of less than 3,000 shall appoint one trustee who shall hold office for two years.

Where city  
or separated  
town in-  
cluded in  
district

(2) Where a high school district comprises a municipality or municipalities not separated from the county or counties for municipal purposes and a city or separated town, trustees shall be appointed by the council or councils of the municipality or municipalities not separated from the county or counties for municipal purposes as provided in subsection 1 and in addition the council of the city shall appoint six trustees, two of whom shall retire each year, or the council of the separated town shall appoint three trustees, one of whom shall retire each year, as the case may be.

Interpre-  
tation

(3) A part of a municipality that is assessed for school purposes in the high school district for less than \$50,000 shall not be deemed a municipality for the purposes of subsections 1 and 2.

District  
composed of  
city or  
separated  
town

(4) Where a high school district comprises only a city or separated town, the council of the city or separated town shall appoint six trustees, two of whom shall retire each year.

Order of  
retirement

(5) The council that has the power and duty of appointing high school trustees shall provide for the order of their retirement. 1954, c. 87, s. 20.

County  
appoint-  
ments

**23.**—(1) Where the whole of a high school district is within one county, the council of the county may appoint one trustee who shall hold office for one year or, at the request of the board, may appoint three trustees, one of whom shall retire each year.

Idem

(2) Where a high school district comprises two or more counties or parts thereof,

- (a) the council of the county having the largest population within the district may appoint one trustee who shall hold office for one year or, at the request of the board, may appoint three trustees, one of whom shall retire each year; and
- (b) the council of any other county within or partly within the district may, at the request of the board, appoint one trustee who shall hold office for one year.

(3) Upon the appointment of three trustees by a county <sup>Retirement</sup> council, the council shall provide for the order of their retirement, and upon the withdrawal of a request for the appointment of three trustees, the council shall determine which one of the three trustees appointed by it, other than the one whose term of office expires at the end of the year in which the request is withdrawn, shall remain in office for the succeeding year. 1954, c. 87, s. 21.

**24.**—(1) Where one separate school board operates a <sup>Separate school appointment</sup> separate school situated in a high school district, the separate school board may appoint to the high school board one trustee who shall not be a member of the separate school board and who shall hold office for one year.

(2) Where two or more separate school boards operate <sup>Idem</sup> separate schools situated in a high school district, the separate school board having the highest average attendance of pupils below grade 9 for the preceding year, as certified by the separate school inspector, may appoint to the high school board one trustee who shall not be a member of the separate school board and who shall hold office for one year. 1954, c. 87, s. 22.

**25.**—(1) Where one public school board operates a <sup>Public school appointment</sup> public school situated in a high school district, the public school board may appoint to the high school board one trustee who shall not be a member of the public school board and who shall hold office for one year. 1954, c. 87, s. 23 (1).

(2) Where two or more public school boards operate <sup>Idem</sup> public schools situated in a high school district, the public school board having the highest average attendance for the preceding year of pupils below grade 9 who are resident in the high school district, as certified by the public school inspector, may appoint to the high school board one trustee who shall not be a member of the public school board and who shall hold office for one year. 1958, c. 98, s. 3.

(3) In the case of the first board of a new high school district, <sup>Special case</sup> in lieu of the appointment under subsection 2, where,

- (a) a board of education is being dissolved and the municipality or municipalities over which the board has jurisdiction are included in the new high school district; and
- (b) the average attendance of pupils below grade 9 for the preceding year in the school or schools under its jurisdiction, as certified by the public school inspector, exceeds the average attendance of such pupils in any public school section within the district,

the board of education may appoint to the high school board one trustee who shall not be a member of the board of education and who shall hold office for one year. 1954, c. 87, s. 23 (3).

Board in  
unorganized  
territory

**26.**—(1) Where a high school district is established under subsection 4 of section 12, the Lieutenant Governor in Council may provide for the formation of a board.

Powers  
and  
duties

(2) The board may borrow money as provided in section 37 and shall exercise the powers and duties of a municipal council for that part of the high school district that comprises territory without municipal organization with respect to preparing estimates of the sums required during the year, assessing, court of revision, levying rates, collecting taxes and issuing debentures, for secondary school purposes.

Apportion-  
ment of  
costs

(3) In apportioning the costs within the high school district, the portion of the high school district that comprises territory without municipal organization shall be treated as one municipality.

Assessment

(4) The assessor and tax collector appointed by the board for the territory without municipal organization have the same powers as an assessor and tax collector in a municipality.

Rates for  
first year  
to be levied  
on current  
assessment

(5) In the first year that any territory without municipal organization is included in a high school district, the rates for that year shall be levied on the assessment of the property in such territory made in that year. 1958, c. 98, s. 4.

Trustees  
where  
district  
enlarged

**27.**—(1) Where a high school district is enlarged or the population of the portion of a municipality within a district has increased and as a result the number of trustees should be increased, the council of the municipality entitled to appoint the additional trustee or trustees shall make such appointments.

Where  
district  
decreased

(2) Where a high school district is decreased or the population of the portion of a municipality within a district has decreased and as a result the number of trustees appointed by the council of the municipality should be decreased, the council of the municipality shall not fill the vacancy arising at the end of the year and, where necessary to further decrease the number of appointments to the required number, shall provide for the retirement at the end of the year of any trustee. 1960, c. 108, s. 4.

Corpora-  
tion  
name

**28.**—(1) Where a high school district comprises one municipality, the trustees are a corporation by the name of "The High School Board of the ..... of ....." or "The Collegiate Institute Board of the..... of ....." (*inserting the classification and name of the municipality*).

(2) Where a high school district comprises more than one <sup>Idem</sup> municipality, the trustees are a corporation by the name of "The ..... District High School Board" or "The ..... District Collegiate Institute Board" (*inserting a name selected by the board and approved by the Minister*). 1954, c. 87, s. 26.

**29.**—(1) High school trustees shall hold office until their <sup>Term of office</sup> successors are appointed and a new board is organized.

(2) The first appointments of members of a new board shall <sup>Time for appointments of trustees</sup> be made at the last regular meeting of the appointing body in the calendar year before the board is to be organized and the trustees shall take office on the 1st day of January in the following year.

(3) Vacancies arising from the annual retirement of trustees <sup>Idem</sup> shall be filled at the last regular meeting of the appointing body in the calendar year and the trustees shall take office on the 1st day of January in the following year.

(4) Where an appointing body fails to appoint a trustee <sup>Idem</sup> as provided in subsection 2 or 3, it shall make the appointment at its next regular meeting.

(5) Vacancies arising from death, resignation, removal <sup>Vacancies</sup> from the high school district or county or otherwise shall be filled forthwith by the appointing body, and the person appointed to fill the vacancy shall hold office for the unexpired term of the person whose place has become vacant.

(6) A trustee may resign by giving written notice thereof to <sup>Resignation</sup> the secretary of the board. 1954, c. 87, s. 27.

**30.**—(1) Every high school board shall provide adequate <sup>Establishment and maintenance of schools</sup> accommodation for its pupils and shall establish and maintain a high or vocational school in the high school district in which it has jurisdiction and may establish and maintain such additional high or vocational schools as the board may deem necessary and, subject to section 31, may provide for the location, erection, maintenance and management of the schools so established.

(2) Notwithstanding subsection 1, the board of a high <sup>Exceptions</sup> school district may, in lieu of establishing and maintaining a school, enter into an agreement with another secondary school board to provide for the instruction of its pupils in the schools under the jurisdiction of that board and for the payment of fees in respect of such pupils.

(3) If the board of a high school district in a county fails <sup>Where no school maintained</sup> to operate a school for a period of two years and has not entered into an agreement under subsection 2, the county

council or councils by which the district was established shall by by-law discontinue the district and include it in one or more adjoining districts. 1954, c. 87, s. 28.

Debentures  
for perman-  
ent improve-  
ments

**31.—(1)** Subject to the approval of the Ontario Municipal Board, the sums required by a high school board for permanent improvements may be raised on the application of the board by the issue of municipal debentures as provided herein, and all sums required to pay off the debentures and to pay interest thereon and the expenses connected therewith shall be raised by assessment on the ratepayers of the municipality or municipalities or parts thereof and of any territory without municipal organization comprising the high school district. 1954, c. 87, s. 29 (1); 1958, c. 98, s. 5.

Application  
by board  
to council

(2) The application shall be made to the council or councils having jurisdiction in the high school district, and in it the board may state the proposed terms of years, not exceeding thirty, within which the sum required is to be repaid.

Council to  
deal with  
application

(3) The council or, if more than one, each of the councils applied to, at its first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove the application, and if a vote in any council results in a tie the application shall be deemed to be disapproved by that council.

Issue of  
debentures

(4) If the council, or a majority of the councils where there are more than one, approves of the application, the council of the municipality within which the high school is or is to be situated shall raise the sum required by the issue of debentures in the manner provided by *The Municipal Act*, or if it so desires the council of any municipality may raise its proportion of the sum required by the issue of its own debentures.

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Submission  
of applica-  
tion to rate-  
payers

(5) If the council, or half or a majority of the councils where there are more than one, disapproves of the application, the council or each of the councils on the request of the board shall submit the application to a vote of the electors of its municipality, or of the part thereof included in the high school district, as the case may be, in the manner provided by *The Municipal Act* in the case of a money by-law. 1954, c. 87, s. 29 (2-5).

When vote  
to be held

(6) Where the board requests that the application be submitted by the council or each of the councils, as the case may be, to a vote of the electors, unless the board otherwise agrees, the vote shall be held within ninety days of the receipt of the request from the board. 1957, c. 111, s. 2.

(7) If a majority of the votes cast throughout the high school district is in favour of the application, the council of the municipality in which the high school is or is to be situated shall raise the required sum by the issue of debentures in the manner provided by *The Municipal Act*, but without submitting the by-law to the electors. When vote favourable

(8) The council or councils having jurisdiction in a high school district or a majority of them may pass by-laws for the purpose of raising or borrowing money required by the board for permanent improvements without submitting the by-laws to a vote of the electors. Assent of electors not required

(9) A debenture may be for such term of years, not exceeding thirty, as the council or councils concerned or a majority of them deem proper, or the council or councils or a majority of them shall if the board has so requested and may, with or without such request, make the debenture debt payable by annual or other instalments in the manner provided by *The Municipal Act*. Terms of debentures  
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(10) The council or councils of a municipality or municipalities liable for more than one-half of such debt shall be deemed to be a majority for the purposes of subsection 9. 1954, c. 87, s. 29 (6-9). Interpretation

(11) Where the issue of a debenture by a municipality for permanent improvements by a board has been approved by the Ontario Municipal Board and the council of the municipality borrows and advances money to the board before the sale of the debenture for the purposes of the undertaking for which the issue of the debenture is required, the council may charge the cost of such borrowing to the board for the period before the sale for which the money is borrowed or for a period of one year, whichever is the lesser. 1960, c. 108, s. 5. Cost of borrowing advance to board before sale of debenture

**32.—**(1) Where a high school district comprises more than one municipality or parts of municipalities, and an application made under subsection 2 of section 31 has been approved under subsection 4 thereof, or a majority of the votes is in favour of the application under subsection 7 thereof, and the councils of a majority of the municipalities which or part of which are included in the district by resolution request the council of the county in which the school is or is to be situated to raise the entire sum required by the issue of its debentures, such county council may without the assent of the electors issue the debentures in the manner provided by *The Municipal Act*, and the provisions of section 35 apply except that each municipality shall pay its proportion to the county council. Request for county to issue debentures

Consideration by county council

(2) The county council shall consider the request at its next meeting following the receipt thereof, and if the county council refuses the request, or neglects to make a decision at such meeting, the provisions of section 31 apply.

Where county must comply

(3) Notwithstanding subsections 1 and 2, where a request is made under subsection 1 and the high school district comprises more than one-half of the equalized assessment, or more than one-half of the municipalities, of the county in which the school is or is to be situated, the council of the county shall issue the debentures. 1954, c. 87, s. 30.

Payment to school boards

**33.** Where a municipality has raised money for the purposes of a high school board by the issue and sale of debentures, or by the hypothecation of debentures or temporary financing pending the sale of debentures, it shall pay over such money to the board from time to time as the board may require. 1954, c. 87, s. 31.

Estimates

**34.—**(1) Every high school board shall prepare and submit to each municipal council liable under this Act, on or before such times as the council prescribes, estimates for the current year of all sums required to be provided by the council to meet expenditures for maintenance of the schools under the charge of the board during the current calendar year and for the payment of fees of resident pupils attending secondary schools outside the high school district that they have the right to attend as resident pupils, and such estimates,

- (a) shall include and make due allowance for the amount of any surplus or deficit remaining at the end of the preceding year and the revenues estimated to be derived from legislative grants, any county or other municipality, fees and from all other sources; and
- (b) may include such additional sum as may be deemed expedient for permanent improvements to be made during the year,

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but the board of a high school district that includes a municipality that is subject to Part III of *The Department of Municipal Affairs Act*, or a part thereof, and that is unable to obtain the approval of the Ontario Municipal Board to the issue of debentures for permanent improvements of a high school or high schools shall not include in its estimates any sum for permanent improvements without the approval of the municipal council concerned. 1954, c. 87, s. 32 (1).

Rates for current purposes

(2) The council or councils of the municipality or municipalities which or part of which is or are included in a high school district shall levy and collect each year and transfer



to the high school board from time to time as required, but not later than the 15th day of December, such amount as the board may deem necessary for,

- (a) maintenance of the school or schools under the jurisdiction of the board;
- (b) payment of fees for which the board is liable in respect of resident pupils attending other schools; and
- (c) expenditures for permanent improvements out of current funds not exceeding a sum calculated at one mill in the dollar upon the total assessment of the high school district according to the last revised assessment roll and a further sum if such further sum is approved in the manner provided for approving debentures for permanent improvements,

and such amount shall be apportioned and raised in the manner provided in sections 35 and 36 with respect to liability for debenture debt. 1954, c. 87, s. 32 (2); 1958, c. 98, s. 6.

**35.**—(1) Where a high school district comprises more than one municipality or parts thereof and the municipalities or parts form part of a county for municipal purposes, each municipality is liable for such proportion of the principal and interest payable under the debentures and of the expenses connected therewith as the equalized assessment of the municipality or part bears to the equalized assessment of the whole district, and the council of each municipality shall levy on the property rateable for school purposes in the municipality or part and pay its proportion to the municipality that has issued the debentures. Proportion-  
ate liability  
for debenture  
debt

(2) Where a high school district comprises a city or separated town and one or more other municipalities or parts thereof that form part of a county for municipal purposes, each municipality is liable for such proportion of the principal and interest payable under the debentures and of the expenses connected therewith as the assessment of the city or separated town or the equalized assessment of the municipality or part, as the case may be, bears to the total of the assessment of the city or separated town and of the equalized assessments of the other municipalities or parts, and the council of each municipality shall levy on the property rateable for school purposes in the municipality or part and pay its proportion to the municipality that has issued the debentures. Idem

(3) Where a high school district comprises two or more adjoining municipalities or parts thereof in a territorial district, each municipality is liable for such proportion of the principal and interest payable under the debentures and of the expenses Idem

connected therewith as the assessment of the municipality or part bears to the total assessment of the whole district, and the council of each municipality shall levy on the property rateable for school purposes in the municipality or part and pay its proportion to the municipality that has issued the debentures.

Time for  
payments

(4) The payments required to be made by a municipality to the municipality or county that has issued the debentures shall be made on or before the date or dates in each year upon which the payments in respect of the debentures fall due, and where a municipality defaults in paying its proportion when due, the municipality or county that has issued the debentures may charge the defaulting municipality interest at the rate of one-half of 1 per cent for each month or fraction thereof that the payment is overdue. 1954, c. 87, s. 33 (1-4).

Assumption  
of larger  
proportion

(5) Any municipality may offer to assume and may assume a greater proportion than its proportion under subsection 1, 2 or 3 and may issue its own debentures therefor, and in that case the proportion of the balance to be paid by each of the other municipalities shall be such as may be agreed upon and if the councils of the other municipalities fail to agree upon the proportion within thirty days of the making of the offer, the proportion of the balance to be paid by each of the other municipalities shall be determined in accordance with subsection 1, 2 or 3, as the case may be. 1954, c. 87, s. 33 (5); 1955, c. 76, s. 3.

Request for  
arbitration

(6) Subject to subsection 12, where the council of one of the municipalities is of the opinion that the division of liability in accordance with subsections 1 to 5 imposes an undue burden on the ratepayers of the municipality or part, the council may apply to the board of the high school district before the 1st day of September in the year in which the assessment has been equalized or, where an appeal has been made under section 96 of *The Assessment Act* with respect to such equalized assessment, within fifteen days of the final determination of such appeal for an arbitration to determine the proportion of liability each municipality shall bear in the following year. 1960, c. 108, s. 6 (1).

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c. 23

Arbitrators

(7) Upon receipt of the application, the board shall direct its secretary to call a meeting of the assessors of the municipalities within or partly within the district, and the county assessors, if any, of the county or counties within which the municipalities forming part of a county for municipal purposes are situated, and these assessors shall be arbitrators to determine the proportion of liability each municipality shall bear.

Designation  
of assessor

(8) For the purpose of subsection 7, where there is more than one assessor in any municipality, the council thereof

shall name one of them to be the arbitrator for the municipality.

(9) The arbitrators shall make their decision in writing and file a copy thereof with the secretary of the board who shall forthwith send a copy of the decision to the clerk of each municipality by registered mail. 1954, c. 87, s. 33 (7-9). Notification of decision

(10) If, within thirty days of the mailing of the copies of the decision by the secretary, the council of one of the municipalities files with the secretary a written objection to the decision of the arbitrators, the board shall refer the matter to the Ontario Municipal Board whose decision is final. Reference to Municipal Board where decision objected to

(11) In considering the proportion of liability that each municipality shall bear, the arbitrators and the Ontario Municipal Board may have regard to the assessments and equalized assessments, the location of the school and the use that will be made of it, the relative populations of the municipalities, transportation costs, and any other matter that in their or its view should be considered in order to result in an equitable apportionment of liability. 1954, c. 87, s. 33 (11, 12). Considerations in determining liability

(12) The decision of the arbitrators, or, if the matter is referred to the Ontario Municipal Board, the decision of the Ontario Municipal Board, is effective for a period of three years or until the boundaries of the high school district are changed or until the assessment of the portion of a municipality included in the high school district is increased or decreased by a total of more than 10 per cent since the last decision of the arbitrators. 1958, c. 98, s. 7; 1960, c. 108, s. 6 (2). Effect of decision

(13) For the purposes of this section, "equalized assessment" means the assessment as equalized in the year preceding the year in which the proportion to be determined will be payable. 1960, c. 108, s. 6 (3). Equalized assessment

(14) Nothing in section 31 or in this section prevents the municipality in which the high school is situated from assuming the full cost of permanent improvements or any part thereof or from undertaking to pay any debentures that may be issued therefor notwithstanding that such municipality forms only a part of the high school district. 1954, c. 87, s. 33 (15). Municipality may assume full cost of permanent improvements

**36.**—(1) Where a high school district comprises part or all of one or more municipalities and territory without municipal organization, the assessors of the municipalities and the territory without municipal organization shall be arbitrators who shall meet before the 1st day of December at the call of the secretary of the board and determine the portion of the amounts under subsection 2 of section 34 and the principal and interest payable under any debentures and expenses connected there- Proportion of liability in high school districts that include unorganized territory

with that shall be raised commencing in the following year by assessment on the ratepayers of each municipality and the territory without municipal organization.

Application  
of sub-  
sections 9-14  
of section 35

(2) Subsections 9 to 14 of section 35 apply *mutatis mutandis* to an arbitration under this section.

Referencee to  
Municipal  
Board on  
objection of  
ratepayers  
of  
unorganized  
territory

(3) Five ratepayers of the territory without municipal organization representing the ratepayers of the territory without municipal organization may file a written objection to the decision of the arbitrators under subsection 10 of section 35. 1958, c. 98, s. 8.

Borrowing  
power

**37.** The board of a high school district that comprises two or more municipalities or parts thereof may, if necessary to provide for the payment of current operating costs, borrow on the promissory note of the board under its corporate seal, at interest not exceeding 8 per cent per annum, such moneys as may be required for that purpose until the current year's taxes and legislative grants have been received. 1954, c. 87, s. 34, *part*.

High school  
property  
vested in  
trustees

**38.—**(1) All property heretofore granted or devised to, acquired by or vested in any person or corporation for the high school purposes of any locality, or that may hereafter be so granted, devised, acquired or vested is vested in the board having jurisdiction in such locality.

Power to  
sell, lease,  
etc.

(2) Subject to the approval of the Minister, the board has power to sell, convey, transfer or lease such property, or any part thereof, or any property otherwise acquired by the board, upon the adoption of a resolution by the board that the property is no longer required for high school purposes, and the proceeds of such sale, transfer or lease shall be applied for high school purposes.

Notice to  
Minister

(3) Where a board sells, conveys, transfers or leases any such property, the secretary of the board shall immediately advise the Minister as to the disposition of the proceeds. 1954, c. 87, s. 35.

## PART III

### VOCATIONAL SCHOOLS

Interpre-  
tation

**39.** In this Part, "board" means a high school board or board of education. 1954, c. 87, s. 37.

Establish-  
ment of  
vocational  
schools

**40.—**(1) Subject to the approval of the Minister, a board may establish and maintain a vocational school.

(2) Subject to the approval of the Minister, a vocational <sup>Courses of study</sup> school under this Part may provide,

- (a) full-time day courses of study;
- (b) part-time day courses of study;
- (c) evening courses of study.

(3) A board that has established a vocational school may <sup>Special vocational schools and classes</sup> establish special vocational schools or classes for the purpose of providing vocational education for pupils of thirteen years of age and over who have been in attendance in auxiliary classes or who are eligible for admission to such classes. 1954, c. 87, s. 38.

**41.**—(1) Upon the recommendation of the vocational <sup>Admission of pupils, to pre-vocational school courses</sup> school principal and with the approval of the advisory committee, pupils who have successfully completed grade 7 at an elementary school may be admitted to any pre-vocational school course of study at a vocational school.

(2) Subject to the regulations, pupils of thirteen years of <sup>to special vocational schools and classes</sup> age and over who have been in attendance in auxiliary classes, or who are eligible for admission to such classes, may, on the recommendation approved by the Minister of an examining board constituted by the Minister for the purpose, be admitted to special vocational schools or classes.

(3) Subject to the regulations, a resident pupil, Idem

- (a) who is required to attend school under *The Schools Administration Act*; and R.S.O. 1960, c. 361
- (b) in respect of whom a recommendation that he attend a special vocational school or class established by the school board has been made and approved under subsection 2,

may be required by the school board to attend any such special vocational school or class.

(4) Where the vocational school principal is satisfied that <sup>Admission of adults</sup> an adult is competent to receive instruction, the adult may, without regard to his school standing, be admitted,

- (a) to a special full-time day course of study;
- (b) to a part-time day course of study; or
- (c) to an evening course of study.

(5) Where a pupil has,

- (a) attended pre-vocational school classes in a vocational <sup>Transfer from pre-vocational courses</sup> school for at least one year; and

- (b) made progress in his course of study satisfactory to the principal,

he may, with the approval of the principal, transfer to any other course of study in the vocational school. 1954, c. 87, s. 39.

Advisory  
vocational  
committee

**42.**—(1) Where, in accordance with the regulations, one or more schools to which this Part applies are established by a board, the schools shall be under the management and control of an advisory vocational committee appointed by the board.

Composition

(2) The committee shall be composed of eight or twelve persons, as the board may direct, the members of which shall be appointed by the board.

Idem

(3) When the number of members is eight, the committee shall be composed of,

- (a) the chairman and three other members of the board, including the representative, if any, appointed by the public school board, the representative, if any, appointed by the separate school board, and one of the representatives, if any, appointed by the county council or councils, or where a board of education is established, the chairman and three other members of the board, including a representative, if any, appointed by the separate school board and one of the representatives, if any, appointed by the county council or councils;
- (b) two persons, not members of the board, who are engaged as employees in the manufacturing, agricultural, commercial or other industries carried on in the high school district; and
- (c) two other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing, agricultural, commercial or other industries carried on in the high school district.

Idem

(4) When the number of members is twelve, the committee shall be composed of,

- (a) the chairman and five other members of the board, including the representative, if any, appointed by the public school board, the representative, if any, appointed by the separate school board, and one of the representatives, if any, appointed by the county council or councils, or where a board of education is established, the chairman and five other members of the board, including a representative, if any,

appointed by the separate school board and one of the representatives, if any, appointed by the county council or councils;

- (b) three persons, not members of the board, who are engaged as employees in the manufacturing, agricultural, commercial or other industries carried on in the high school district; and
- (c) three other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing, agricultural, commercial or other industries carried on in the high school district.

(5) Where,

- (a) a public school board, a separate school board or a county, that has the right to appoint a representative to a high school board, fails to make its appointment for any year before the 1st day of February in that year; or
- (b) a separate school board or a county, that has the right to appoint a representative to a board of education, fails to make its appointment for any year before the 1st day of February in that year,

Where  
appointing  
body fails  
to make  
appoint-  
ment

the high school board or board of education shall appoint from among its members a representative or representatives to complete the number of representatives of the board on the committee and each member so appointed shall hold office until the end of the year in which he is appointed. 1954, c. 87, s. 40.

**43.**—(1) The first members of the advisory vocational committee shall be appointed at the meeting of the board at which a school is established for which the committee is to be appointed.

Appoint-  
ment of  
members

(2) The members of the committee who are members of the board shall hold office until the expiry of the period for which they were elected or appointed to the board.

Tenure of  
office

(3) The term for which the other members of the committee shall respectively hold office shall be fixed by the board but shall not exceed three years.

Idem

(4) The board, at its first meeting in each year after the establishment of the school, shall appoint a sufficient number of members from each class to fill the vacancies caused by the expiry of the term of office of members appointed from that class.

Vacancies

Idem

(5) Every vacancy upon a committee occasioned by death, removal or other cause shall be filled by the appointment by the board of some person from the class in which the vacancy occurs, and every person so appointed shall hold office for the unexpired portion of the term of the member whose seat has become vacant.

Quorum

(6) The presence of a majority of the members constituting a committee is a quorum at any meeting, and a vote of the majority of the quorum is necessary to bind a committee.

Chairman  
voting

(7) On every question, other than the election of a chairman, the chairman or presiding officer of the committee may vote with the other members of the committee, and any question on which there is an equality of votes shall be deemed to be negatived. 1954, c. 87, s. 41.

Co-opted  
members

**44.**—(1) The advisory vocational committee may, in any year at a meeting that has been specially called for the purpose and of which notice has been given to all the members, appoint such additional members of the committee, to be known as co-opted members, as it may deem necessary.

Idem

(2) In the appointment of co-opted members, an equal number of persons shall be appointed from each of the classes mentioned in clauses *b* and *c* of subsection 3 of section 42 or in clauses *b* and *c* of subsection 4 of section 42, as the case requires, and a number of members of the board shall be appointed equal to the total number of additional persons appointed from the said classes.

Term of  
office

(3) Co-opted members shall hold office for the calendar year in which they are appointed. 1954, c. 87, s. 42.

Qualifica-  
tions of  
members

**45.** The members of the advisory vocational committee, including co-opted members, shall be British subjects, and shall be persons who, in the judgment of the board, are specially competent to give advice and other assistance in the management of the school or schools under the charge of the committee. 1954, c. 87, s. 43.

Powers of  
committee

**46.**—(1) Subject to the approval of the Minister and the board, the advisory vocational committee may provide a suitable site and building and suitable equipment or arrange for conducting a school in an elementary or secondary school building or other building in the high school district, and define courses of study.

Other  
powers

(2) Subject to the approval of the board, the committee shall select teachers and determine a schedule of salaries, report on every school under its charge, fix the fees payable



by pupils in attendance, submit annually to the board at such date as the board may prescribe an estimate of the amount required to carry on the work of the school during the year, and generally do all other things necessary for carrying out the objects and intent of this Part with respect to any school under its management and control.

(3) The board shall not refuse its approval of any report of the committee without having given the committee an opportunity to be heard before the board and before any committee thereof to which the report is referred by the chairman of the committee or by another member of the committee appointed for that purpose.

When approval withheld

(4) The secretary and other officers of the board shall be the officers of the committee.

Officers of committee

(5) Subject to the approval of the Minister and the board, the committee may appoint one or more officers with qualifications approved by the Minister to bring to the attention of employers and employees the work of the schools, and to make the necessary arrangements among employers, employees and the schools for the conduct of part-time or co-operative classes, and, in general, to act as a co-ordinating officer or officers between the local industries and the schools, and every person so appointed is subject to the control of the committee.

Co-ordinating officers

(6) Subject to the approval of the Minister and the board, the committee may appoint one or more officers qualified according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils of the schools under the charge of the committee as will enable them to plan intelligently for their vocational and educational advancement, and every person so appointed is subject to the control of the committee. 1954, c. 87, s. 44.

Vocational guidance officers

**47.**—(1) Subject to the regulations, the estimates of the advisory vocational committee of the cost of establishing, equipping and maintaining the school or schools under its management and control, when and so far as they have been approved by the board, shall be included in the estimates of the board submitted to the municipal council or councils for the year.

Estimates

(2) Subject to the regulations, the cost of establishing, equipping and maintaining vocational schools, and the cost of permanent improvements thereof, shall be provided for in the same manner as in the case of high schools. 1954, c. 87, s. 45.

Provision of moneys

Application  
of Pts. II,  
IV, V and  
R.S.O. 1960,  
c. 361

**48.** Where not inconsistent with this Part, Parts II, IV and V and *The Schools Administration Act* apply in all matters concerning the operation and management of a vocational school, the property in connection therewith, the employment and retirement of teachers and other persons employed in such vocational school, and in any other matters whatsoever. 1954, c. 87, s. 46.

## PART IV

### BOARDS OF EDUCATION

Interpre-  
tation

**49.** In this Part,

- (a) "board of education" means a board of education established under section 51;
- (b) "union board of education" means a board to which section 62 applies. 1954, c. 87, s. 47.

Establish-  
ment and  
status of  
board

**50.**—(1) A board of education may be established in a high school district to perform the duties of a high school board for the district and the duties of a public school board for the public school section or sections situated within the boundaries of the district, and where a board of education is established,

- (a) for high school purposes, it shall be deemed to be a high school board for the purposes of this and every other Act; and
- (b) for public school purposes, it shall be deemed to be a public school board for the purposes of this and every other Act,

except where inconsistent with this Part.

Powers and  
duties of  
board

(2) Every board of education is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon a public school board or a high school board.

Name of  
board

(3) The name of a board of education that has jurisdiction in one municipality is "The Board of Education for the .....of....." (*inserting the name of the municipality*).

Idem

(4) The name of a board of education that has jurisdiction in more than one municipality is "The.....District Board of Education" (*inserting a name selected by the board and approved by the Minister*). 1954, c. 87, s. 48.

(5) A member of a board of education appointed by a county council or a separate school board is a trustee for secondary school purposes only and all other members of a board of education are trustees for public and secondary school purposes. 1957, c. 111, s. 3.

**51.**—(1) Subject to the approval of the Minister first being obtained, where a high school district does not extend beyond the limits of the municipality, the council of a city, town, village or township may, on or before the 1st day of July in any year, pass a by-law establishing a board of education for the district, whereupon the elective members of the board shall be elected at the next ensuing municipal election and the members to be appointed shall be appointed and the board organized in accordance with this Part.

(2) Subject to the approval of the Minister first being obtained, where a high school district that includes two or more municipalities or parts thereof comprises the same area as one or more units of public school administration, the council of the county or the councils of the counties in which the high school district has been established shall, on or before the 1st day of July in any year, upon the receipt of a resolution from the council of each of the municipalities within the district declaring that it is expedient to form a board of education for the district, pass a by-law establishing a board of education for the district, whereupon the elective members of the board shall be elected at the next ensuing municipal election and the members to be appointed shall be appointed and the board organized in accordance with this Part.

(3) Subject to the approval of the Minister first being obtained, where a high school district has been established by two or more adjoining municipalities in a territorial district, the councils of the municipalities may, on or before the 1st day of July in any year, pass by-laws establishing a board of education for the district, whereupon the elective members of the board shall be elected at the next ensuing municipal election and the members to be appointed shall be appointed and the board organized in accordance with this Part.

(4) Where a high school district has been established under subsection 4 or 5 of section 12, the Lieutenant Governor in Council may authorize the formation of a board of education for the district, and may provide for the composition of the board and the term or terms of office of the members thereof, and for all other purposes the provisions of this Part apply to the board.

(5) A by-law establishing a board of education may be passed notwithstanding that a union board of education exists

for the district, or notwithstanding that the by-law or by-laws establishing the high school district have not come into effect in which case no high school board shall be organized. 1954, c. 87, s. 49.

Assets,  
liabilities,  
etc.

**52.**—(1) Upon the organization of a board of education,

- (a) the high school board and all public school boards in the high school district are dissolved and where a union board of education exists for the district, it is dissolved;
- (b) all the property vested in such boards becomes vested in the board of education;
- (c) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the board of education.

Levies, etc.,  
for board

(2) Where a board of education is established,

- (a) the cost of operating the public and secondary schools under the jurisdiction of the board shall be apportioned among the municipalities within the district and shall be levied and collected *mutatis mutandis* in the manner provided in subsection 2 of section 34;
- (b) the issue of debentures for both public and secondary school purposes and the apportionment among the municipalities within the district and the levy and collection for payments under the debentures shall be governed *mutatis mutandis* by sections 31, 32 and 35,

except that levies for public school purposes shall be made only on property rateable therefor. 1954, c. 87, s. 50.

Appropriation  
of  
property

**53.** A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but where public school property is appropriated for high school purposes the public school shall be credited with the value of the property so appropriated and where high school property is appropriated for public school purposes the high school shall be credited with the value of the property so appropriated. 1954, c. 87, s. 51.

Composition  
of board,  
elective  
members

**54.**—(1) Where a board of education is established for one municipality, the elective members of the board shall be elected in the same manner and number as the trustees of a public school board in an urban municipality and the provisions of *The Public Schools Act* with respect to the number of

trustees and manner of election of trustees of public school boards in urban municipalities apply *mutatis mutandis*. 1960, c. 108, s. 7.

(2) In addition to the members elected under subsection 1, <sup>Separate school appointments</sup>

(a) in a city having a population of 50,000 or more, the separate school board of the city shall appoint two members; and

(b) in any other municipality, the separate school board of the municipality shall appoint one member,

in the same manner and under the same conditions as if the board of education were a high school board.

(3) In addition to the members elected under subsection 1, <sup>County appointments</sup> an additional member or members may be appointed by a county council or councils in the same manner and under the same conditions as if the board of education were a high school board.

(4) Where there is no separate school board of the municipality, the board shall be composed of the elected members <sup>Where no separate school board</sup> as provided in subsection 1 and the appointed members, if any, as provided in subsection 3. 1954, c. 87, s. 52 (2-4).

**55.**—(1) Where a board of education is established for <sup>Board for two municipalities</sup> two municipalities, a municipality having a population within the high school district,

(a) of less than 1,000 shall elect two members;

(b) of 1,000 or more but less than 3,000 shall elect three members;

(c) of 3,000 or more but less than 6,000 shall elect four members; and

(d) of 6,000 or more shall elect five members.

(2) Where a board of education is established for <sup>Board for more than two municipalities</sup> three or more municipalities, a municipality having a population within the high school district,

(a) of less than 1,000 shall elect one member;

(b) of 1,000 or more but less than 3,000 shall elect two members;

(c) of 3,000 or more but less than 6,000 shall elect three members;

(d) of 6,000 or more but less than 10,000 shall elect four members; and

(e) of 10,000 or more shall elect five members.

Interpre-  
tation

(3) A part of a municipality that is assessed for school purposes in the high school district for less than \$50,000 shall not be deemed a municipality for the purposes of subsections 1 and 2.

County and  
separate  
school  
appoint-  
ments

(4) In addition to the members elected under subsection 1 or 2, an additional member or members may be appointed by a county council or councils and an additional member by a separate school board in the same manner and under the same conditions as if the board of education were a high school board. 1954, c. 87, s. 53.

Mode of  
election

**56.**—(1) The members of a board of education to be elected shall be elected by the general vote of the persons qualified to vote for public school trustees, and the election shall be held at the same time and place, by the same returning officer and in the same manner as the election of a mayor or reeve, and, save as otherwise provided, all the provisions of *The Public Schools Act* respecting the qualification of trustees and the election of trustees by ballot apply to the election.

R.S.O. 1960,  
c. 330

Residence  
qualification

(2) Notwithstanding the residence qualification prescribed in *The Public Schools Act*, a person who is a ratepayer of a municipality which, or any part of which, is included in the high school district, and who is assessed in the district and who resides in the district or within five miles of the boundaries thereof is, unless otherwise disqualified, qualified to be a member of the board of education of the district.

First  
election of  
members of  
board

(3) The first election shall take place at the time of holding the municipal elections in the year in which the by-law or by-laws establishing the board of education is or are passed, but nothing in this section affects any board having jurisdiction over any public school, high school or vocational school during the year in which such by-law is passed.

Number of  
votes for  
candidates

(4) Every person qualified to vote is entitled to as many votes as there are members to be elected, but may not give more than one vote to any one candidate.

First  
election

(5) At the first election the full number of elective members shall be elected.

Terms of  
office of  
first  
members

(6) Where a municipality elects more than one member, one-half of the members so elected where the number of elected members is an even number, and the next number higher than one-half where the number of elected members is an odd number, who receive the highest number of votes, shall continue in office for two years thereafter and until

their successors are elected and the new board is organized, and the remaining members shall continue in office for one year and until their successors are elected and the new board is organized.

(7) Subject to subsection 8, where a municipality elects only one member, he shall continue in office for two years and until his successor is elected and a new board is organized. Where one member elected

(8) Where two or more municipalities each elect only one member, the sequence of retirement of those members shall be determined by lot to be cast by the secretary at the first meeting of the board, and one-half of such members where the number of such members is an even number and the next number higher than one-half where the number of such members is an odd number, shall continue in office for two years and until their successors are elected and a new board is organized, and the remainder of those members shall continue in office for one year and until their successors are elected and a new board is organized. Where several municipalities elect one member

(9) Where two or more members receive an equal number of votes at the first election or where the full number of members to be elected is elected by acclamation and no agreement as to which of them shall retire is reached at the first meeting of the board, then at the next meeting the question shall be determined by lot to be cast by the secretary in the presence of the board, and the result shall be entered upon the minutes of the meeting. Retirement where members have equal votes

(10) At each annual election after the first, a sufficient number of members shall be elected for two years to fill the places of the members retiring. Subsequent elections

(11) The members retiring at the expiration of the terms for which they were respectively elected or appointed are eligible for re-election or re-appointment if otherwise qualified. Retiring members eligible for re-election

(12) The appointment of a member or members by a separate school board shall be made at the last regular meeting thereof in the year before the first meeting of the board of education is to be held and at its last regular meeting in every second year thereafter, and any member so appointed shall hold office for two years and until his successor is appointed. Appointment by separate school board

(13) No member of a body having the right to appoint a member of a board of education is eligible for appointment or election as a member of the board. Members of appointing body not eligible

(14) When by reason of increased population additional representation on a board of education becomes necessary, the appointment shall be made or the election shall take place of the additional members at the regular time for the next Additional representation

ensuing year, and the election of such members and of those required to replace retiring members shall be decided together in accordance with subsection 6. 1954, c. 87, s. 54.

Restrictions  
on appointed  
members

**57.**—(1) A member of a board of education appointed by a county council or a separate school board may vote on any motion except one that involves the public schools. 1960, c. 108, s. 8.

Failure to  
appoint

(2) A board shall not be deemed incomplete by reason only of the failure of an appointing body to appoint the member or members that it has the right to appoint.

Vacancies  
in office of  
appointed  
members

(3) Where the office of an appointed member becomes vacant from any cause before the expiration of the term for which he was appointed, the vacancy shall be filled forthwith by the appointing body and the person appointed to fill the vacancy shall hold office for the remainder of the term for which his predecessor was appointed.

Idem

(4) When an appointing body fails to appoint a member at the prescribed time, the appointment may be made subsequently, but the term of office of the person appointed shall expire as if he had been appointed at the time prescribed. 1954, c. 87, s. 55 (2-4).

Vacancy  
in office of  
elected  
member

**58.** Where the office of an elected member of a board of education becomes vacant from any cause before the expiration of the term for which he was elected, it shall be filled in the manner provided for filling a vacancy on a public school board in an urban municipality. 1960, c. 108, s. 9.

Disqualifi-  
cation  
R.S.O. 1960,  
c. 330

**59.** Subject to subsection 2 of section 56, the provisions of *The Public Schools Act* and of Part II respecting the disqualification of persons from being elected or appointed to, and from sitting and voting as members of public school boards and high school boards respectively, and respecting members resigning or vacating their offices, apply to all boards of education. 1954, c. 87, s. 57.

Number  
and election  
of elective  
members of  
board of  
education  
for one  
municipality

**60.** Sections 29, 30, 31 and 32 of *The Public Schools Act* apply *mutatis mutandis* to the elective members of a board of education that has jurisdiction in only one municipality. 1960, c. 108, s. 10.

Dissolution  
of board,  
question  
submitted to  
electors

**61.**—(1) Where a board of education has jurisdiction in only one municipality, and at a meeting of a board of education specially called for that purpose a majority of the members of the board vote in favour of the dissolution of the board, a copy of the resolution shall be submitted forthwith to the



municipal council with the request that the question "Are you in favour of dissolution of the board of education?" be submitted to a vote of the electors of the municipality.

(2) The council shall at the next municipal election submit the question to a vote of the electors, and if the question is answered in the affirmative by a majority of the electors voting thereon, the board of education is dissolved on the 31st day of December of the year in which the vote is taken.

(3) Upon the dissolution of the board of education, a high school board and a public school board shall be established in the municipality, and the provisions of Part II and *The Public Schools Act* apply with respect to the appointment of high school trustees and the election of public school trustees respectively.

(4) Upon the dissolution of the board of education, all property held or possessed by the board for high school purposes vests in the high school board and all property held or possessed by the board for public school purposes vests in the public school board, and all debts, contracts, agreements and liabilities for which the board of education was liable become obligations of the high school board or the public school board, as the case may be.

(5) In the event of a dispute as to the division of the property and liabilities of the board of education, the division shall be made by the municipal council, whose decision is final.

(6) Where a board of education has jurisdiction in only one municipality and the high school district is dissolved or enlarged to include other municipalities, the board of education is *ipso facto* dissolved and a high school board and a public school board shall be established for the municipality as provided in subsection 3, and subsections 4 and 5 apply. 1954, c. 87, s. 60.

**62.**—(1) This section applies to every union board of education established before the 6th day of April, 1954 under *The Boards of Education Act* or any predecessor thereof that was in existence on that day. 1954, c. 87, s. 61 (1), *amended*.

(2) The members of the high school and public school boards forming the union shall continue to be appointed and elected as if the union had not been formed and when so appointed or elected shall be the members of the union board of education.

(3) Every union board of education is a corporation by the name of "The Board of Education for (*naming the municipality in which the high school is situated*)", and such corporation has

all the powers, shall perform all the duties and is subject to all the obligations of high school and public school boards.

Dissolution  
of union  
boards

(4) If at a meeting of a union board of education specially called for that purpose a majority of all the members of the board vote in favour of the dissolution thereof, the board is dissolved on the date fixed for holding the first meeting of a union board in any year next following such vote.

Trustees to  
continue in  
office

(5) Where a union board of education is dissolved, the members thereof who are high school trustees shall constitute the high school board and shall continue in office for the remainder of the terms for which they were respectively appointed, and the members thereof who are public school trustees shall constitute the public school board and shall continue in office for the remainder of the terms for which they were respectively elected.

Division of  
property

(6) Upon the dissolution, all property held or possessed by the union board of education for high school purposes forthwith vests in the high school board, and all property held or possessed by the union board of education for public school purposes forthwith vests in the public school board, and all property held or possessed by the union board of education at the time of its dissolution partly for high school and partly for public school purposes shall be divided as may be agreed upon by such high school and public school boards at a meeting called for that purpose.

When coun-  
cil to make  
division

(7) If no division is made within six months after the dissolution, the division shall be made forthwith by the council of the local municipality in which the high school is situated.

Automatic  
dissolution

(8) Notwithstanding subsection 5, where the high school district and public school section for which a union board of education has been formed cease to be composed of the same area, the union board of education is *ipso facto* dissolved as of the date the district and section cease to be composed of the same area, and the provisions of Part II and of *The Public Schools Act* apply with respect to the appointment of high school trustees and the election of public school trustees respectively. 1954, c. 87, s. 61 (2-8).

R.S.O. 1960,  
c. 330

Special and  
advanced  
courses of  
study in  
high schools

**63.—(1)** Every board of education having jurisdiction over more than one high school, with the approval of the Minister, may,

- (a) make such modifications of the school courses provided in the high, industrial, technical and art schools under its jurisdiction as it deems expedient;

- (b) provide for special or advanced instruction in any of such courses;
- (c) designate such schools, or any of them, English, commercial, technical, industrial, art or classical high schools, according to the course or courses of instruction provided therefor.

(2) The accommodations and equipment of the school and the qualifications of the staff are subject to the regulations. Application of regulations

(3) Every board of education has power to appoint a psychiatrist or a psychologist, to fix his salary and to define his authority. 1954, c. 87, s. 62 (1-3). Psychiatrist or psychologist

(4) A board of education of a city, or any other board of education that employs at least 100 teachers in the public and secondary schools under its jurisdiction, may appoint a director of education who shall be qualified as required by the regulations and who, under the direction of the board, shall be in charge of the schools under the jurisdiction of the board. Director of education

(5) The provisions of *The Schools Administration Act* with respect to the appointment, suspension and removal of an inspector apply *mutatis mutandis* to the appointment, suspension and removal of a director of education. 1958, c. 98, s. 9. Appointment, suspension and removal of director R.S.O. 1960, c. 361

**64.** The provisions of *The Public Schools Act* and Parts II and III that are not inconsistent with this Part shall be read as part of this Part and so far as such provisions are inconsistent with the provisions of this Part they do not apply to boards of education or union boards of education. 1954, c. 87, s. 63. Application of R.S.O. 1960, c. 330

## PART V

### GENERAL

**65.—(1)** In a county, the board of a high school district that consists of a city or separated town may by resolution or by-law declare all or any of its high schools open to, Declaring schools open

- (a) county pupils of the county in which the district is situated;
- (b) county pupils of an adjoining county; and
- (c) resident pupils of any high school district within the county in which the district is situated or within any adjoining county or adjoining territorial district,

and, where a resolution or by-law is passed under clause *a*, may request the council of the county in which the district

is situated to appoint one additional trustee who shall hold office for one year.

Idem

(2) The board of a secondary school district in a county, other than a high school district that consists of a city or separated town, may by resolution or by-law declare all or any of its continuation or high schools open to,

(a) county pupils of an adjoining county; and

(b) resident pupils of any secondary school district within the county or counties in which the district is situated or within any adjoining county or adjoining territorial district.

Idem

(3) The board of a secondary school district in a territorial district may by resolution or by-law declare all or any of its continuation or high schools open to resident pupils of any other secondary school district in the territorial district or in an adjoining territorial district or adjoining county.

Idem

(4) The board of any high school district may by resolution or by-law declare all or any of its vocational schools open to,

(a) county pupils of any county; and

(b) resident pupils of any secondary school district.

Notice

(5) Where a school is declared open under this section, the board shall notify the clerk of the county concerned or the secretary of the board of the secondary school district concerned, as the case may be.

Revocation  
of declara-  
tion

(6) Where a school is declared open under this section, the board may, before the 30th day of June in any year, pursuant to a resolution or by-law give notice in writing to the clerk of the county concerned or to the secretary of the board of the secondary school district concerned, as the case may be, that the school or schools will no longer be open to the county or resident pupils, and upon the giving of such notice such county or resident pupils may continue to attend the school or schools only until the expiration of two school years after the 30th day of June in that year. 1954, c. 87, s. 64.

Agreements  
for education  
at outside  
schools

**66.**—(1) A secondary school board that has established one or more secondary schools may enter into an agreement with another secondary school board to provide for the instruction, in the school or schools maintained by the latter board, of resident pupils of the first-mentioned board.

Idem

(2) The council of a municipality in a territorial district which, or part of which, has not been established as or included in a secondary school district may enter into an agree-

ment with a secondary school board to provide for the instruction, in the school or schools maintained by the board, of the pupils of the municipality or part of the municipality. 1954, c. 87, s. 65.

**67.**—(1) Where a pupil has been promoted from grade 8 to grade 9 in the manner prescribed by the regulations, he shall be admitted to grade 9 <sup>Admission to grade 9</sup>.

(2) An applicant who has not been promoted from grade 8 to grade 9 in the manner prescribed by the regulations shall be admitted to grade 9 if the principal has satisfied himself that the applicant is competent to undertake the work of that grade. <sup>Idem</sup>

(3) An applicant for admission to grade 10, 11, 12 or 13 shall be admitted if the principal has satisfied himself that the applicant is competent to undertake the work of the grade to which he has applied for admission. <sup>Admission to grades 10-13</sup>

(4) Where the principal is not satisfied that an applicant is competent to undertake the work of the grade to which the applicant has applied for admission under subsection 3, he may place him in a lower grade. <sup>Reduction in grade</sup>

(5) An applicant is entitled to enter an evening course of study in a high school if, in the opinion of the principal, after due examination or other investigation, he is competent to take up the desired course, but such admission does not entitle him to admission to the high school day courses. <sup>Admission to evening courses</sup>

(6) A pupil enrolled in a full-time day course of study in a vocational school shall not be admitted to an evening course of study except with the consent of the vocational school principal. 1954, c. 87, s. 66. <sup>Idem</sup>

**68.**—(1) A county pupil has the right to attend any secondary school in the county in respect of which he is a county pupil except a secondary school in a secondary school district that consists of a city or separated town. <sup>Right to attend a school, county pupils</sup>

(2) A resident pupil of a secondary school district has the right to attend a secondary school in his secondary school district. <sup>resident pupils</sup>

(3) Subject to subsections 4, 5 and 6, a county pupil, or a resident pupil of a secondary school district, has the right to attend any secondary school, <sup>county and resident pupils</sup>

(a) that is more accessible to the pupil than any secondary school in his own county or secondary school district, as the case may be;

- (b) to take a course of study leading to a type of secondary school graduation diploma that is not available in his own county or secondary school district, as the case may be;
- (c) to take a two-year trade course in grades 9 and 10 of a vocational school if the course is not available in his own county or secondary school district, as the case may be;
- (d) to take a grade 13 subject or subjects not available in his own county or secondary school district, as the case may be, but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling; or
- (e) to take a course of study that includes the subject of French for French-speaking pupils in grade 9, 10, 11, 12 or 13, not available in his own county or secondary school district, as the case may be, but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling.

## Restrictions

- (4) Subsection 3 applies to a county pupil only if,
  - (a) the school has been declared open to such pupils; and
  - (b) in the case of a high or continuation school, the school is situated in an adjoining county or in a city or separated town in his own or an adjoining county.

## Idem

(5) Subsection 3 applies to a resident pupil of a secondary school district in a county only if,

- (a) the school has been declared open to such pupils; and
- (b) in the case of a high or continuation school, the school is situated in his own county outside of a city or separated town or is situated in an adjoining county or in a city or separated town in his own or an adjoining county.

## Idem

(6) Subsection 3 applies to a resident pupil of a secondary school district in a territorial district only if the inspector of the school certifies that there is adequate accommodation for the pupil in the school.

## Non-resident pupils

(7) At its discretion a secondary school board may admit to a school operated by it a pupil who has not the right, under this section, to attend such school. 1954, c. 87, s. 67.

**69.**—(1) The cost of education of county pupils attending a secondary school that they have a right to attend under section 68 shall be provided and paid to the board of the school by the council of the county to the extent, according to the basis, in the manner and at the times set out in this section.

(2) The cost of education of such county pupils shall be determined on the basis of the cost for the preceding calendar year and shall be levied, become due and be paid in any year in respect of the cost of the preceding calendar year.

(3) The amounts payable by the council of the county shall be paid not later than the 1st day of July in the year in which they become due and shall be included in and levied and collected as part of the county rates for that year. 1954, c. 87, s. 68 (1-3).

(4) The cost of education of such county pupils attending a high or continuation school shall be calculated in the following manner:

(a) First, the total gross current expenditures shall be ascertained for the calendar year for,

- (i) maintenance of the high or continuation schools under the jurisdiction of the board, excluding fees paid or payable to another board and the cost of operation of evening courses of study,
- (ii) permanent improvements for the schools, and
- (iii) payments made or owing on behalf of the board for a sinking fund or of principal and interest upon a debenture issued in respect of the schools.

(b) Second, the total gross revenues shall be ascertained for the same calendar year in respect of the schools from,

- (i) legislative grants, excluding grants on fees paid or payable to another board and on the operation of evening courses of study,
- (ii) fees other than fees paid or payable by another board,
- (iii) rents,
- (iv) donations other than for permanent improvements, and
- (v) other sources except taxation.

- (c) Third, from the total gross expenditures ascertained as provided in clause *a* there shall be deducted the total gross revenues ascertained as provided in clause *b*, and the resultant amount ascertained after such deduction shall be the net sum upon which the cost of education of such county pupils shall be based and calculated.
- (d) Fourth, the perfect aggregate attendance of all pupils at the schools for the preceding calendar year shall be divided into the net sum ascertained as provided in clause *c* and the resultant amount shall be the net cost per pupil-day of all such pupils.
- (e) Fifth, the perfect aggregate attendance of all county pupils from the county at the schools during the same calendar year shall be multiplied by the amount of the net cost per pupil-day ascertained as provided in clause *d*, and the resultant sum shall be the amount of the net cost of education of such county pupils for which the council of the county shall be liable and pay as provided in subsection 1. 1954, c. 87, s. 68 (4); 1960, c. 108, s. 11.

Idem

(5) The cost of education of such county pupils attending a vocational school shall be calculated in the manner provided in subsection 4 except that the expenditures, revenues and attendance shall be calculated in respect of the vocational schools under the jurisdiction of the board.

Levy for  
county  
pupils

(6) The cost of education of county pupils to be paid by the council of a county shall be levied as part of the county rates in the following municipalities and in the following manner:

- (a) 50 per cent of such cost by a levy upon and against the whole rateable property, according to the last revised equalized assessments, of the municipalities or portions of municipalities comprising the part of the county that is not included in any secondary school district; and
- (b) the remaining 50 per cent by a levy upon and against the whole rateable property, according to the last revised equalized assessments, of the municipalities or portions of municipalities comprising the part of the county that is not included in any secondary school district and in which the county pupils reside or are assessed or their parents or guardians are assessed, in the proportion that the perfect aggregate attendance of the county pupils who reside or are assessed or whose parents or guardians are



assessed in such municipality or portion of a municipality bears to the perfect aggregate attendance of all county pupils.

(7) Notwithstanding subsection 6, the council of the county <sup>Proviso</sup> may, during the first year of the inclusion in a secondary school district of any municipality or part of a municipality that forms part of the county, levy a portion of the cost of education of the county pupils against the whole rateable property in the municipality or part in the same manner as if the municipality or part were not included in a secondary school district.

(8) Notwithstanding subsection 6, the county levy in <sup>Proviso</sup> respect of county pupils attending continuation schools shall include a levy upon and against the whole rateable property in a continuation school district against which property no levy is made for maintenance of the continuation schools in the continuation school district. 1954, c. 87, s. 68.

**70.—**(1) No fees are payable by or in respect of, <sup>Where no fees payable</sup>

(a) a county pupil attending a secondary school that he has a right to attend under section 68; or

(b) a resident pupil of a secondary school district attending a secondary school maintained by the board of the district.

(2) Where a resident pupil of a secondary school district <sup>Fees payable</sup> attends a secondary school pursuant to an agreement under subsection 2 of section 30 or under subsection 1 of section 66 or which he has a right to attend under subsection 3 of section 68, the board of the secondary school district of which he is a resident pupil shall pay fees to the board that operates the secondary school, calculated in accordance with subsection 4 or 5 of section 69, as the case requires, except that legislative grants shall not be deducted as provided in clause *c* of the said subsection 4.

(3) Where a pupil attends a secondary school pursuant to <sup>Idem</sup> an agreement under subsection 2 of section 66, the council of the municipality shall pay fees to the board that operates the secondary school calculated in accordance with subsection 4 or 5 of section 69, as the case requires.

(4) Where a pupil other than one referred to in subsection 1, <sup>Idem</sup> 2 or 3 attends a secondary school, the board that operates the school may require that such fees as the board may prescribe shall be paid by or on behalf of the pupil, but such fees shall not exceed the average cost per pupil of education in the schools maintained by the board for the preceding

calendar year calculated as provided in subsection 4 or 5 of section 69, as the case requires.

Fees payable  
to treasurer

(5) Fees payable under this section are payable to the treasurer of the board.

Limitation  
on right to  
attend with-  
out payment  
of fees

(6) Notwithstanding sections 68 and 69, where a pupil,

(a) has completed grade 8; and

(b) has attended one or more secondary schools for a total of six or more years,

he shall not be admitted to a secondary school except upon payment of such fees as the board that operates the school may prescribe but such fees shall not exceed the average cost per pupil of education in the schools maintained by the board for the preceding calendar year calculated as provided in subsection 4 or 5 of section 69, as the case requires. 1954, c. 87, s. 69.

Admission  
of ward of  
children's  
aid society

**71.**—(1) A ward of a children's aid society who has completed the elementary school course shall be admitted without the payment of a fee to a secondary school that was supported by the assessment of the residence in which he resided with his parent or guardian in the year in which he became a ward.

Idem

(2) Where a child who has completed the elementary school course and who is in the custody of a corporation, society or person resides in a secondary school district and is not qualified for admission to a secondary school in that district under any other provision of this Act and the secondary school inspector certifies that there is sufficient accommodation in a secondary school in that secondary school district for the current school year, the board of the district shall admit the child to a secondary school upon the prepayment monthly by the corporation, society or person of a fee not in excess of the average cost per pupil of education in the schools maintained by the board for the preceding calendar year calculated as provided in subsection 4 or 5 of section 69, as the case requires.

Admission  
of a child  
whose  
mother  
is the sole  
supporter,  
etc.

(3) A child who has completed the elementary school course and whose mother,

(a) resides in Ontario;

(b) is the sole support of the child;

(c) is not assessed as a supporter of a secondary school; and

(d) boards her child in a residence that is assessed to the support of a secondary school and that is not a

children's boarding home as defined in *The Children's Boarding Homes Act*, R.S.O. 1960, c. 54

shall be admitted to a secondary school by the board of the secondary school district in which he resides without the payment of a fee. 1960, c. 108, s. 12.

**72.**—(1) A county pupil who applies for admission to any secondary school, or a resident pupil of a secondary school district who applies for admission to a secondary school situated in another secondary school district, shall furnish the principal of the school to which admission is sought with a statement signed by the pupil's parent or guardian stating, Admission if county pupils and resident pupils from other districts

- (a) in the case of a county pupil, the name of the county in respect of which he is a county pupil;
- (b) in the case of a resident pupil, the name of the secondary school district in respect of which he is a resident pupil;
- (c) whether or not the pupil or his parent or guardian is assessed in the secondary school district in which the school is situated, and if so assessed the amount of such assessment; and
- (d) the authority, under this Act, under which the pupil claims to have a right to attend the school.

(2) The principal of the school shall forward the statement to the secretary of the board that operates the school and if the pupil is admitted the secretary of the board shall forthwith notify the clerk of the county of which the pupil is a county pupil or the secretary of the board of the district of which the pupil is a resident pupil, as the case may be, of the fact of the admission and of the information included in the statement. 1954, c. 87, s. 70. Notice of admission

**73.**—(1) Where,

- (a) the council of a county and the board of a secondary school district attended by county pupils from the county are unable to agree upon the sum to be paid for the cost of education of such county pupils under section 69; Disagreements as to cost of education or fees
- (b) the board of a secondary school district and the board of another secondary school district are unable to agree upon the fees to be paid under subsection 2 of section 70;

- (c) the council of a municipality and the board of a secondary school district are unable to agree upon the fees to be paid under subsection 3 of section 70; or
- (d) a dispute as to whether or not a person is entitled to attend a secondary school as a resident or county pupil cannot be settled between a board and the person or his parent or guardian,

the matter shall be referred to the county judge who shall determine the matter. 1954, c. 87, s. 71 (1); 1959, c. 93, s. 3.

Reference  
and  
directions

(2) Either party may refer the matter to the judge and he shall give such directions as to the conduct, proceedings and hearing of the reference as he may deem fit.

Filing of  
documents,  
etc.

(3) The parties shall file with the judge such financial statements and balance sheets of the affairs of the board providing the instruction, such copies, extracts or information taken from the school registers as to enrolment and attendance of all pupils and of the pupils in respect of whom the cost of education or fees are payable and as to the names and addresses of such pupils and their parents or guardians, and such other statements, accounts, records, books and documents as may appear to the judge to be requisite in order fully and finally to ascertain all matters pertinent to the determination of the cost of education of the county pupils to be paid by the county, the fees to be paid by the board or the fees to be paid by the municipality, as the case may be.

Costs of  
reference

(4) The costs of the reference to the judge are in his discretion and the amount thereof shall be fixed by him and he may order to and by whom and in what manner the costs shall be paid. 1954, c. 87, s. 71 (2-4).

Additional  
county levies

**74.**—(1) The council of any county may raise, in addition to any sum that it is required to raise by this Act, such further sums as it may deem expedient for the maintenance or permanent improvements of the continuation or high schools situated in the county, but any additional sum so raised shall be by a general county levy and, subject to subsection 2,

- (a) if the sum is raised for the continuation schools, shall be apportioned among all the continuation schools in proportion to the liability of the county to each board; and
- (b) if the sum is raised for the high schools, shall be apportioned among all the high schools in proportion to the liability of the county to each board.

(2) The council of a county may by a two-thirds vote of all the members thereof pass by-laws for granting additional aid to any one or more of the continuation or high schools in the county without making a similar provision for the other continuation or high schools. Grants to particular schools

(3) The council of any municipality which, or any part of which, is included in a secondary school district, in addition to any sum that it is required to raise by this Act, may make grants as it may deem expedient for the maintenance or permanent improvements of the secondary school or schools in the district, or any of them. 1954, c. 87, s. 72. Local municipality grants

**75.** The council of united counties may apportion the amount to be levied for the cost of education of county pupils so that each county is liable only in respect of its own county pupils. 1954, c. 87, s. 73. Apportionment of cost of education in united counties

**76.**—(1) The council of a county may establish a consultative committee, which shall consist of the public school inspector or one of them where there are more than one in the county, a person appointed by the Minister, and three other persons appointed by the council. Consultative committee in county

(2) The council may submit to the committee and direct it to report upon petitions for the establishment of new secondary school districts or the alteration of the boundaries of existing secondary school districts, and may direct the committee to obtain information and make recommendations regarding, Functions

- (a) the desirability of establishing new secondary school districts and the boundaries thereof;
- (b) the retention of existing secondary school districts and the alteration of the boundaries thereof;
- (c) the advisability of continuing or discontinuing existing continuation school districts, or their absorption into high school districts; and
- (d) any other matters affecting secondary school education in the county.

(3) The Minister may direct the committee to obtain and supply the Department with information upon any question affecting applications for the approval of secondary school districts or of sites or buildings therefor. Minister may employ committee

(4) All secondary school boards having jurisdiction within the county shall, on the request of the committee, furnish to the committee information regarding the names, residences and attendance of all resident, county and other pupils and Information to be supplied to committee

of all revenues and expenditures together with any further information that the committee may require concerning matters in any way affecting the provision of secondary school education in the county.

Reports,  
etc., not  
binding

(5) The reports and recommendations of the committee are not binding upon the Minister, the county council or any of the secondary school boards having jurisdiction in the county. 1954, c. 87, s. 74.

Consulta-  
tive com-  
mittee in  
territorial  
district

**77.**—(1) The Minister may establish one or more consultative committees for the purpose of investigating the existing facilities for secondary school education in a territorial district or in any part thereof designated by him, and the committee, subject to subsection 2, shall be composed of such persons appointed by the Minister as he deems proper and may include one or more representatives of any department of the public service of Ontario.

Municipal  
appoint-  
ment

(2) The council of any municipality having a population of 2,000 or more and situated in the territorial district, or part thereof, for which the committee is established may appoint one member of the committee.

Functions

(3) The committee shall obtain information and make recommendations to the Minister regarding,

- (a) the desirability of establishing new secondary school districts and the boundaries thereof;
- (b) the retention of existing secondary school districts and the alteration of the boundaries thereof;
- (c) the advisability of continuing or discontinuing existing continuation school districts, or their absorption into high school districts; and
- (d) any other matters affecting secondary school education in the territorial district, or part thereof, for which the committee is established.

Information  
to be  
supplied to  
committee

(4) All secondary school boards and municipal councils having jurisdiction within the territorial district, or part thereof, for which the committee is established shall, on the request of the committee, furnish to the committee information regarding the names, residences and attendance of all resident and other pupils and of all revenues and expenditures with respect to secondary school education, together with any further information that the committee may require concerning matters in any way affecting the provision of secondary school education in the territorial district or part thereof.

(5) The reports and recommendations of the committee are not binding upon the Minister or any school board or municipal council having jurisdiction in the territorial district or part thereof. Reports, etc., not binding

(6) The travelling expenses of members of the committee appointed by the Minister shall be paid out of such moneys as may be appropriated therefor by the Legislature. Travelling expenses

(7) The travelling expenses of a member of the committee appointed by the council of a municipality shall be paid by the municipality. Idem 1954, c. 87, s. 75.

**78.** A secondary school board may provide and pay for the transportation of its resident pupils to any secondary school situated in the secondary school district or in any other secondary school district and, subject to the approval of the Minister, of county pupils who attend any school operated by the board, and for that purpose may, Transportation

- (a) purchase out of current revenue or by the issue of municipal debentures, a bus or buses or other vehicles; or
- (b) enter into an agreement or agreements for a term of one year with any corporation, commission or person for the transportation of such pupils, provided that where a board provides transportation for more than thirty pupils, with the approval of the Ontario Municipal Board it may enter into such an agreement or agreements for a term not exceeding five years. 1954, c. 87, s. 76; 1957, c. 111, s. 4.

**79.—**(1) Any person may, with the approval of the secondary school board concerned, establish bursaries or prizes. Establishment of scholarships, etc.

(2) A secondary school board may award bursaries or prizes to its pupils under such terms and conditions as the board may deem expedient and prescribe. Idem 1954, c. 87, s. 77.

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## CHAPTER 363

## The Securities Act

## INTERPRETATION

## 1. In this Act,

Interpre-  
tation

- (a) "broker" means any person or company, trading in securities in the capacity of an agent, who is a member of a stock exchange in Ontario and such other person or company, trading in securities in the capacity of an agent, who is recognized by the Commission as a broker; R.S.O. 1950, c. 351, s. 1, cl. (a); 1951, c. 83, s. 8.
- (b) "broker-dealer" means any person or company who is a member of the Broker-Dealers' Association of Ontario and such other person or company recognized by the Commission as a broker-dealer who engages either for the whole or part of his or its time in the business of trading in securities in the capacity of an agent or principal;
- (c) "Commission" means the Ontario Securities Commission;
- (d) "company" means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization;
- (e) "industrial company" means a company other than a company recognized by the Commission as a mining company or investment company;
- (f) "investment company" means a company, other than a company recognized by the Commission as a mining company or an industrial company, whose principal business is the acquisition of or the investment in the securities of other companies whether for the purpose of acquiring control or management of such companies or for the purpose of deriving revenue from such securities and includes a company, other than an issuer within the meaning of *The Investment Contracts Act*, which issues investment certificates, investment contracts, savings certificates, savings contracts or securities of a like nature; R.S.O. 1960, c. 194<sup>194</sup>, s. 1, cls. (b-f).

- (g) "investment counsel" means any person or company who engages in or holds himself or itself out as engaging in the business of advising others as to the advisability of investing in or purchasing or selling specific securities and who is primarily engaged in giving continuous advice as to the investment of funds on the basis of the individual needs of each client; 1953, c. 97, s. 1 (1).
- (h) "investment dealer" means any person or company who is a member, branch office member or associate member of the Central District of the Investment Dealers' Association of Canada and such other person or company recognized by the Commission as an investment dealer who engages either for the whole or part of his or its time in the business of trading in securities in the capacity of an agent or principal;
- (i) "mining company" means a company, other than a company recognized by the Commission as an industrial company or an investment company, which engages either directly or indirectly in any mode or method of working whereby the ground, soil or earth or any rock, stone or quartz may be disturbed, removed, drilled, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of winning, obtaining or proving the presence of any mineral or minerals, which includes in addition to any other minerals, any metal, coal, natural gas, oil and salt, or of any mineral-bearing substance, mineral deposit, ore body, stratum, soil, rock, bed of earth, clay, sand, gravel or cement;
- (j) "official" means president, vice-president, secretary, treasurer and manager;
- (k) "person" means an individual, partnership, unincorporated association, unincorporated organization, and syndicate other than an incorporated syndicate;
- (l) "primary distribution to the public" used in relation to securities means,
  - (i) trades that are made for the purpose of distributing to the public securities issued by a company and not previously distributed,
  - (ii) trades in previously distributed securities for the purpose of redistributing such securities to the public where the securities form all or a part of or are derived from the holdings of

any person or company or any combination of persons or companies holding a sufficient quantity of such securities or of the securities from which such securities have been derived to materially affect the control of the company that is the issuer of the securities,

whether such trades are made directly to the public or through an underwriter, optionee, sub-underwriter, sub-optionee or otherwise and includes any transaction involving a purchase and resale, or a repurchase and resale, in the course of or incidental to such distribution or redistribution to the public but does not include either a trade through a person or company registered for trading in securities under this Act who is not engaged in such distribution or redistribution to the public but is acting as the agent of the purchaser or a sale by a person or company not engaged in such distribution or redistribution to the public;

- (m) "register" means register under this Act;
- (n) "registrar" means the registrar of the Commission appointed under this Act;
- (o) "regulations" means the regulations made under this Act;
- (p) "salesman" means an individual registered as a salesman under this Act; R.S.O. 1950, c. 351, s. 1, cls. (h-p).
- (q) "securities adviser" means any person or company who engages in or holds himself or itself out as engaging in the business of advising others, either directly or through publications or writings, as to the advisability of investing in or purchasing or selling specific securities; 1953, c. 97, s. 1 (2).
- (r) "security" includes,
  - (i) any document, instrument or writing commonly known as a security,
  - (ii) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
  - (iii) any document constituting evidence of an interest in an association of legatees or heirs,
  - (iv) any document constituting evidence of an interest in any option given upon a security,

- (v) any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate or subscription,
- (vi) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,
- (vii) any certificate of share or interest in a trust estate or association,
- (viii) any profit-sharing agreement or certificate,
- (ix) any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,
- (x) any oil or natural gas royalties or leases or fractional or other interest therein,
- (xi) any collateral trust certificate,
- (xii) any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*,
- (xiii) any bankers' share,
- (xiv) any trustees' share,
- (xv) any investment contract other than an investment contract within the meaning of *The Investment Contracts Act*, or
- (xvi) any investment participating bond or investment trust debenture,

whether any of the foregoing relate to a person, proposed company or company as the case may be;

- (s) "security issuer" means a company that engages in the primary distribution to the public of securities of its own issue;
- (t) "sub-broker-dealer" means an individual who, being retired from active business or as incidental to his principal occupation and as correspondent of any investment dealers or broker-dealers or both, trades in securities for a part of his time in the capacity of an agent or principal;
- (u) "trade" or "trading" includes,
  - (i) any solicitation for or obtaining of a subscription to, disposition of or trade in or option

upon a security for valuable consideration whether the terms of payment be upon margin, instalment or otherwise,

- (ii) any attempt to deal in, sell or dispose of a security or an interest in or option upon a security for valuable consideration whether the terms of payment be upon margin, instalment or otherwise,
- (iii) any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
- (iv) any receipt by a person or company registered for trading in securities under this Act of an order to buy or sell a security, whether the order is received over the telephone or in person, and
- (v) any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing. R.S.O. 1950, c. 351, s. 1, cls. (q-t).

## PART I

### THE COMMISSION

**2.—(1)** The Commission shall be composed of a chairman and not more than two other members, one of whom shall be designated as vice-chairman, who shall be appointed by the Lieutenant Governor in Council. Commission, how composed

**(2)** The chairman shall devote his full time to the work of the Commission and the other members shall devote such time as may be necessary for the due exercise and performance of the powers and duties of the Commission. R.S.O. 1950, c. 351, s. 2. Duties of chairman and members

**3.** The chairman, and in his absence the vice-chairman, may exercise and shall perform the powers and duties vested in or imposed upon the Commission by this Act or the regulations, but every direction, decision, order or ruling of the chairman or the vice-chairman is subject to review by the Commission, and the Commission may confirm or revoke any such direction, decision, order or ruling or may make such alteration therein or addition thereto as a majority of the members deem proper. R.S.O. 1950, c. 351, s. 3. Acts of chairman or vice-chairman subject to review

Staff

4. The staff of the Commission shall consist of a registrar and such other officers, clerks, stenographers and employees as the Lieutenant Governor in Council may appoint. R.S.O. 1950, c. 351, s. 4.

Salaries

5.—(1) The members of the Commission, the registrar and the officers, clerks, stenographers and employees of the Commission shall be paid such salaries or remuneration as the Lieutenant Governor in Council may determine.

Payment of  
salaries  
and other  
expenses

(2) The salaries, remuneration and other expenses of the Commission shall be paid out of such moneys as may be appropriated therefor by the Legislature. R.S.O. 1950, c. 351, s. 5.

## PART II

### REGISTRATION

Persons and  
companies  
required to  
register for  
trading in  
securities

6.—(1) No person or company shall,

- (a) trade in any security unless such person or company is registered as a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer or as a salesman of a registered broker, investment dealer, broker-dealer or security issuer;
- (b) act as a partner or officer of or on behalf of any person or company in connection with a trade in any security by such person or company unless such person or company is registered for trading in securities under this Act;
- (c) act as a salesman of or on behalf of any person or company in connection with a trade in any security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a broker, investment dealer, broker-dealer or security issuer;
- (d) act as investment counsel or securities adviser unless such person or company is registered as an investment counsel or securities adviser, as the case may be; or
- (e) advise others by means of a publication or writing as to the advisability of investing in or purchasing or selling a security specified therein unless such person or company is registered or is exempted from registration,

and such registration has been made in accordance with the provisions of this Act and the regulations and such person or company, as the case may be, has received written notice of such registration from the registrar. R.S.O. 1950, c. 351, s. 6 (1); 1953, c. 97, s. 2 (1); 1956, c. 81, s. 1.

(2) Where a person or company is registered as a broker, investment dealer, broker-dealer, investment counsel or securities adviser, every partner or officer of such person or company may act as a broker, investment dealer, broker-dealer, investment counsel or securities adviser, as the case may be, on behalf of such person or company, without separate registration and where a company is registered as a security issuer the officials thereof may act on its behalf in connection with a trade in a security by such company without separate registration. R.S.O. 1950, c. 351, s. 6 (2); 1953, c. 97, s. 2 (2). When separate registration of partners, officers and officials not required

(3) No individual who becomes a partner or officer of a person or company after such person or company has been registered shall trade in securities until such person or company has received from the registrar written permission for such partner or officer so to trade. New partners or officers must be approved

(4) The termination of the employment of a salesman with a person or company registered for trading in securities under this Act shall operate as a suspension of the registration of the salesman until notice in writing has been received by the registrar from a person or company registered for trading in securities under this Act of the employment of the salesman and the employment has been approved by the Commission. R.S.O. 1950, c. 351, s. 6 (3, 4). Termination of employment of salesman

7. The Commission shall grant registration or renewal of registration to an applicant where in the opinion of the Commission the applicant is suitable for registration and the proposed registration is not objectionable. R.S.O. 1950, c. 351, s. 7. Registration

8. The Commission shall suspend or cancel any registration where in its opinion such action is in the public interest. R.S.O. 1950, c. 351, s. 8. Suspension, cancellation

9. Notwithstanding any ruling of the Commission, a further application for registration may be made upon new or other material or where it is clear that material circumstances have changed, provided that no further application for registration shall be made within six months of such ruling unless leave is first obtained from the Commission. R.S.O. 1950, c. 351, s. 9. Further applications

Application  
to be upon  
forms with  
proper fees

**10.** Every application shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1950, c. 351, s. 10.

Address for  
service

**11.** Every applicant shall state in the application an address for service in Ontario, and all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid post to the latest address for service so stated. R.S.O. 1950, c. 351, s. 11.

Further  
information

**12.** The registrar may and shall when so directed by the Commission require any further information or material to be submitted by any applicant or any registered person or company within a specified time limit and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registered person or any partner, officer, director or employee of the registered person or company to submit to examination under oath. R.S.O. 1950, c. 351, s. 12.

Appoint-  
ment of  
experts

**13.—(1)** The Commission may appoint one or more experts to assist the Commission in such manner as it may deem expedient.

Submission  
of documents  
to experts

**(2)** The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission by subsection 3 of section 21 and subsections 3 and 4 of section 21 apply *mutatis mutandis*.

Payment for  
services

**(3)** An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. R.S.O. 1950, c. 351, s. 13.

Residence

**14.—(1)** Registration may, in the absolute discretion of the Commission, be refused to any person who has not been a resident of Ontario for at least one year immediately prior to the date of application for registration with the intention of making his permanent home in Ontario, unless at the time of application such person is registered in a capacity corresponding to that of a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser or salesman under the security laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding



the date of the application and is otherwise suitable for registration. R.S.O. 1950, c. 351, s. 14 (1); 1953, c. 97, s. 3 (1).

(2) Where a company or partnership makes application for registration, the registration may, in the absolute discretion of the Commission, be refused, unless every officer and director, or every member, as the case may be, has been a resident of Ontario for at least one year immediately prior to the date of application for registration with the intention of making his permanent home in Ontario or is registered in a capacity corresponding to that of a broker, investment dealer, broker-dealer, sub-broker-dealer, security issuer, investment counsel, securities adviser or salesman under the security laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is otherwise suitable for registration. R.S.O. 1950, c. 351, s. 14 (2); 1953, c. 97, s. 3 (2).

(3) For the purposes of this section, a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of Her Majesty's armed forces. R.S.O. 1950, c. 351, s. 14 (3).

**15.** Every registration and renewal of registration lapses on the 31st day of March in each year and every registered person or company shall apply for renewal of registration on or before the 1st day of March in each year giving full particulars of any change in the facts set forth in the latest application form on record, and enclosing the prescribed fee. R.S.O. 1950, c. 351, s. 15.

**16.—(1)** Every registered broker, investment dealer and broker-dealer shall, within five days, notify the registrar in writing of,

- (a) any change in the address for service;
- (b) any change in the officers or members in the case of a company or partnership; and
- (c) the commencement and termination of employment of every salesman.

(2) Every registered security issuer shall, within five days, notify the registrar in writing of,

- (a) any change in the address for service;
- (b) any change in the officials; and
- (c) the commencement and termination of employment of every salesman. R.S.O. 1950, c. 351, s. 16 (1, 2).

Investment  
counsel;  
securities  
adviser

(3) Every registered investment counsel and securities adviser shall, within five days, notify the registrar in writing of,

- (a) any change in the address for service; and
- (b) any change in the officers or members in the case of a company or partnership. R.S.O. 1950, c. 351, s. 16 (3); 1953, c. 97, s. 4.

Salesmen

(4) Every registered salesman shall, within five days, notify the registrar in writing of,

- (a) any change in his address for service; and
- (b) every commencement and termination of his employment by a person or company registered for trading in securities under this Act.

Sub-broker-  
dealer

(5) Every registered sub-broker-dealer shall, within five days, notify the registrar in writing of any change in his address for service. R.S.O. 1950, c. 351, s. 16 (4, 5).

Registrar to  
make daily  
deposit

**17.—**(1) The registrar shall cause all cash, cheques, money orders and postal notes to be deposited daily with the Treasurer of Ontario for payment into the Consolidated Revenue Fund.

Refund

(2) Where an application is refused or a registration is cancelled, the registrar may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he deems fair and reasonable be made and the Treasurer may make such refund. R.S.O. 1950, c. 351, s. 17.

#### EXEMPTION FROM REGISTRATION

Exemptions  
from regis-  
tration as  
investment  
counsel  
or security  
adviser:

banks, loan,  
trust and  
insurance  
companies,  
public  
officers

1953-54,  
c. 48 (Can.);  
R.S.C. 1952,  
c. 151;  
R.S.O. 1960,  
c. 222, 190

**18.** Registration as an investment counsel or securities adviser is not required to be obtained by,

- (a) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*, or any officer or employee, in the performance of his duties as such, of Her Majesty in right of Canada or of any province, or of any municipal corporation or public board or commission in Canada;
- (b) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;

lawyers,  
accountants,  
engineers  
and teachers

- (c) a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of the business as such, and who receives no special compensation therefor other than compensation paid or given by a mining, industrial or investment company in respect of any services performed for such company; persons or companies registered for trading in securities, etc.
- (d) a publisher of any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an investment counsel or securities adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commissions or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or certain publishers
- (e) such other persons or companies not within the intent of this section as may be designated by the regulations. R.S.O. 1950, c. 351, s. 18; 1953, c. 97, s. 5. persons or companies designated by Commission

**19.—(1)** Subject to the regulations, registration is not required in respect of the following trades: Exemptions from registration re certain trades:

1. A trade in a security taking place at a judicial, executor's, administrator's, guardian's or committee's sale, or at a sale by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada), a receiver under *The Judicature Act* or a liquidator under *The Corporations Act* or the *Winding-up Act* (Canada). Judicial sales  
R.S.C. 1952, c. 14, 296;  
R.S.O. 1960, c. 197, 71
2. An isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person whose usual business is trading in securities. Isolated transactions by owner
3. A trade where one of the parties is a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*, or is an officer or employee, in the performance of his duties Banks, loan, trust and insurance companies, public officers  
1953-54, c. 48 (Can.);  
R.S.C. 1952, c. 151;  
R.S.O. 1960, c. 222, 190

as such, of Her Majesty in right of Canada or of any province or territory of Canada, or of any municipal corporation or public board or commission in Canada.

Sale of  
pledged  
security

4. A trade by or for the account of a pledgee or mortgagee for the purpose of liquidating a *bona fide* debt by selling or offering for sale or delivering in good faith in the ordinary course of business a security pledged in good faith as security for the debt.

Non-trading  
employees'  
transactions

5. A trade in a security that may occasionally be transacted by employees of a person or company registered for trading in securities under this Act where the employees do not usually sell securities to the public and have been temporarily designated by the registrar as "non-trading" employees, either individually or as a class.

Trades  
between  
issuer and  
underwriter

6. A trade between a person or company and an underwriter, optionee, sub-underwriter or sub-optionee in securities issued by such person or company and trades in such securities between or among underwriters, optionees, sub-underwriters and sub-optionees.

Company  
selling  
securities  
through  
agent

7. A trade in a security by a person or company acting solely through an agent who is a person or company registered for trading in securities under this Act.

Trades  
exempted by  
regulations

8. Trades in respect of which registration is not required by the regulations. R.S.O. 1950, c. 351, s. 19 (1).

Exemptions  
from regis-  
tration  
re certain  
securities:

(2) Subject to the regulations, registration is not required to trade in the following securities:

Stock  
dividends,  
distribution  
of earnings,  
etc.

1. Securities of its own issue that are distributed or issued by a company to the holders of its securities as a stock dividend or other distribution out of earnings or surplus, or securities whether of its own issue or not that are distributed or issued by such company to the holders of its securities as incidental to a *bona fide* re-organization or winding-up of the company or distribution of its assets for the purpose of winding-up its affairs, or the sale by a company to the holders of its securities of additional securities of its own issue if the Commission is notified in writing of the terms of the sale at least ten days before the sale is to be made, and provided that no commission or other remuneration is paid or given to others in respect of such distribution, issuance or sale, except for ministerial or professional services or services performed by a person or company registered for

trading in securities under this Act in connection with a *bona fide* re-organization of the company.

2. Securities of a company that are exchanged by or on account of such company with another company or the holders of the securities of such other company in connection with a consolidation, amalgamation, merger or re-organization of either company. Exchange on merger
3. Securities of or guaranteed by any government in the Commonwealth of Nations or any colony or dependency thereof, or of or guaranteed by the government of any foreign country or state forming a portion of any foreign country. Government securities
4. Securities in which trust funds may lawfully be invested in Ontario. Trust funds
5. Securities secured by mortgage upon real estate or tangible personal property where all of the securities are sold at the one time. Secured bonds
6. Negotiable promissory notes or commercial paper maturing not more than a year from the date of issue. Negotiable paper
7. Securities evidencing indebtedness due under any contract made pursuant to the provisions of any statute of any province of Canada providing for the acquisition of personal property under conditional sale contracts. Securities based upon conditional sales
8. Securities issued by a person or company organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for pecuniary profit, where no part of the net earnings thereof enure to the benefit of any security holder. Shares of non-profit sharing companies
9. Securities issued by corporations operated on a co-operative basis as defined by Part V of *The Corporations Act*. Co-operative corporations R.S.O. 1960, c. 71
10. Shares of a credit union within the meaning of *The Credit Unions Act*. Shares of credit union R.S.O. 1960, c. 79
11. Securities traded by a company with its employees who are not induced to trade by expectation of employment or continued employment. Company stock sales to employees
12. Securities of a private company issued by the private company where the securities are not offered for sale to the public. Securities of private company
13. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition. Prospector's "grub stake"

Syndicate  
units, sale  
by pros-  
pector

14. Securities issued by a prospecting syndicate where such securities are sold by the prospector or one of the prospectors who staked the claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate within the meaning of Part VI, provided that a prospecting syndicate agreement relating to the prospecting syndicate has been accepted for filing thereunder and provided that the prospector delivers a copy of the prospecting syndicate agreement to the person purchasing the security before accepting payment therefor.

Syndicate  
units when  
sold to not  
more than  
50 persons  
or com-  
panies

15. Securities of a prospecting syndicate within the meaning of Part VI, issued by the prospecting syndicate, where a prospecting syndicate agreement relating to the prospecting syndicate has been accepted for filing thereunder and where such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

Securities  
exempted by  
regulations

16. Securities in respect of which registration is not required by the regulations. R.S.O. 1950, c. 351, s. 19 (2); 1956, c. 81, s. 2.

Where  
exemptions  
not to apply

(3) Where a person or company has been guilty of acts or conduct which, in the opinion of the Commission, would warrant the Commission refusing to grant registration to him or it under this Act, the Commission may rule that subsections 1 and 2 shall not apply to him or it. 1953, c. 97, s. 6.

Floor  
traders

**20.**—(1) A person is not required to obtain registration by reason only of trades made by him as a floor trader upon the floor of a stock exchange.

Non-trading  
employees

(2) The registrar may designate as “non-trading” any employee or class of employees of a person or company registered for trading in securities under this Act who do not usually sell securities to the public, but the designation shall be temporary only and may be cancelled as to any employee or class of employees where the registrar is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman. R.S.O. 1950, c. 351, s. 20.

## PART III

### INVESTIGATION AND ACTION BY COMMISSION

Order to  
investigate

**21.**—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code*<sup>1953-54, c. 51 (Can.)</sup> (Canada) in connection with a trade in securities,

the Commission may by order appoint any person to make such investigation as it deems expedient for the due administration of this Act and in the order shall determine and prescribe the scope of the investigation.

(2) For the purposes of any investigation ordered under subsection 1, the person appointed to make the investigation<sup>Scope of investigation</sup> may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of whom or which the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and into any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to, or in connection with any such person or company and into the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(3) For the purposes of subsections 1 and 2, the person making the investigation has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things as is vested in the Supreme Court or a judge thereof for the trial of civil actions, provided that,<sup>Power to summon witnesses and require production</sup>

- (a) the provisions of rules of court or of law relating to the service of subpoenas upon and to the payment of conduct money or witness fees to witnesses do not apply;

(b) no person is entitled to claim any privilege in respect of any document, record or thing asked for, given or produced on the ground that he might be incriminated or exposed to a penalty or to civil litigation thereby;

(c) no person shall refuse to answer any question upon any ground of privilege, provided that a solicitor shall not be required to disclose any communications between himself and his client; and

R.S.O. 1960,  
c. 125

(d) no provisions of *The Evidence Act* exempt any bank or any officer or employee thereof from the operations of this section.

Seizure of  
property

(4) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company the affairs of whom or of which are being investigated.

Accountants,  
other  
experts

(5) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company the affairs of whom or of which are being investigated.

Report of  
investiga-  
tion

(6) Every person appointed under subsection 1 or 5 shall report the result of his investigation or examination to the Commission. R.S.O. 1950, c. 351, s. 21.

Report to  
Attorney  
General

**22.** Where upon the report of an investigation made under section 21 it appears to the Commission that any person or company may have,

(a) contravened any of the provisions of this Act or the regulations; or

1953-54,  
c. 51 (Can.)

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Attorney General. R.S.O. 1950, c. 351, s. 22.

Investigation  
under order  
of Attorney  
General

**23.** Notwithstanding section 21, the Attorney General may by order appoint any person to make an investigation into any matter relating to a trade in securities, in which case the person so appointed, for the purposes of the investi-



gation, has the same authority, powers, rights and privileges as a person appointed under section 21. R.S.O. 1950, c. 351, s. 23.

**24.** No person, without the consent of the Commission, shall disclose any information or evidence obtained or the name of any witness examined or sought to be examined under section 21 or 23. R.S.O. 1950, c. 351, s. 24.

Evidence  
not to be  
disclosed

**25.** Where an investigation has been made under section 21 the Commission may, and where an investigation has been made under section 23 the person making the investigation shall, report the result thereof, including the evidence, findings, comments and recommendations, to the Attorney General and the Attorney General may cause the report to be published in whole or in part in such manner as he deems proper. R.S.O. 1950, c. 351, s. 25.

Reporting  
to Attorney  
General,  
publication  
of report

**26.—(1)** The Commission may,

Order to hold  
or refrain  
from dealing  
with funds

- (a) where it is about to investigate or during or after the investigation of any person or company under section 21 or 23;
- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company which in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a*, *b* or *c*, to hold such funds or securities or direct the person or company referred to in clause *a*, *b* or *c* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act* or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release

R.S.C. 1952,  
cc. 14, 296;  
R.S.O. 1960,  
cc. 197, 71

any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company the direction only applies to the offices, branches or agencies thereof named in the direction.

Application  
for direction

(2) Any person or company in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any funds or security, or in case of a claim being made thereto by any person or company not named in the direction, may apply to the Supreme Court or a judge thereof who may direct the disposition of such funds or security and may make such order as to costs as may seem just.

Notice to  
registrars  
of deeds or  
masters of  
titles

(3) In any of the circumstances mentioned in clause *a*, *b* or *c* of subsection 1, the Commission may in writing or by telegram notify any registrar of deeds or master of titles or any local master of titles or any mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered against the lands or claims mentioned therein and has the same effect as the registration of a certificate of *lis pendens*, save that the Commission may in writing revoke or modify the notice. R.S.O. 1950, c. 351, s. 26.

Application  
for appoint-  
ment of  
receiver,  
trustee and  
manager

**27.—**(1) The Commission may,

- (a) where it is about to investigate or during or after the investigation of any person or company under section 21 or 23;
- (b) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

by originating notice apply to a judge of the Supreme Court for the appointment of a receiver, trustee and manager of the property of such person or company.

(2) Upon an application made under subsection 1, the court may, where it is satisfied that the appointment of a receiver, trustee and manager of the property of any person or company is in the best interests of the creditors of such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver, trustee and manager of the property of such person or company.

(3) Upon an *ex parte* application made by the Commission under this section, the court may make an order under subsection 2 appointing a receiver, trustee and manager for a period not exceeding eight days.

(4) A receiver, trustee and manager of the property of any person or company appointed under this section shall be the receiver, trustee and manager of all of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, trustee and manager shall have authority, if so directed by the court, to wind-up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1950, c. 351, s. 27.

## PART IV

### APPEALS

**28.** A notice of every direction, decision, order or ruling of the Commission,

(a) granting or refusing to grant registration to or renewing, refusing to renew, suspending, cancelling or changing the registration of any person or company; or

(b) regarding trading or the right to trade in securities or any conditions or restrictions relating thereto,

shall be served upon the applicant or the person or company whose registration is thereby affected and upon such other person or company as in the opinion of the Commission is primarily affected by the direction, decision, order or ruling, at the address appearing in the application or upon the records of the Commission. R.S.O. 1950, c. 351, s. 28.

Review by  
Commission

**29.**—(1) Any person or company upon whom a notice is served under section 28 or any other person or company who is primarily affected by any such direction, decision, order or ruling may, by notice in writing served upon the registrar within thirty days after the mailing of the notice, request a hearing and review by the Commission of the direction, decision, order or ruling.

Notice of  
hearing

(2) Where a hearing and review is requested under subsection 1, the registrar shall serve a notice in writing of the time and place thereof to the person or company requesting the hearing and review and to such other person or company as in the opinion of the Commission is primarily affected by the hearing, stating the date and place thereof.

Evidence

(3) Upon the review, the Commission may hear such evidence as may be submitted to it by the person or company requesting the review or by any other person or company and which in the opinion of the Commission is relevant to the review but shall not be bound by the legal or technical rules of evidence, and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Commission shall form the record.

Power on  
review

(4) Upon a review, the Commission may by order confirm or revoke the direction, decision, order or ruling under review or may make such alteration therein or addition thereto as a majority of the members of the Commission deem proper.

Notice of  
order on  
review

(5) A notice of the order made upon every review shall be served forthwith upon the person or company requesting the review and to such other person or company as in the opinion of the Commission is primarily affected by such order. R.S.O. 1950, c. 351, s. 29.

Appeal to  
Supreme  
Court

**30.**—(1) Where the Commission has reviewed a direction, decision, order or ruling under section 29, any person or company upon whom a notice is served under subsection 5 of section 29 or any other person or company who is primarily affected by any such direction, decision, order or ruling or by the order made upon the review may appeal to a justice of appeal of the Supreme Court.

Form of  
appeal

(2) Every appeal shall be by notice of motion served upon the registrar within thirty days after the mailing of the notice under subsection 5 of section 29 and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the

practice and procedure that shall be applicable to appeals taken under this Act.

(3) The registrar shall certify to the Registrar of the <sup>Certificate of registrar</sup> Supreme Court of Ontario,

- (a) the direction, decision, order or ruling that has been reviewed by the Commission;
- (b) the order of the Commission upon the review, together with any statement of reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to the Commission or other material that in the opinion of the registrar are relevant to the appeal.

(4) The Attorney General may designate counsel to assist <sup>Counsel</sup> the court upon the hearing of any appeal that is taken under this section. R.S.O. 1950, c. 351, s. 30.

**31.** Where an appeal is taken under section 30, the court <sup>Order of court</sup> may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court deems proper having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly. R.S.O. 1950, c. 351, s. 31.

**32.** An order of the court is final and there is no appeal <sup>Further direction, etc.</sup> therefrom but notwithstanding such order the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to sections 28 to 31. R.S.O. 1950, c. 351, s. 32.

## PART V

### AUDITS

**33.** Every stock exchange, the Central District of the <sup>Panel of auditors</sup> Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall,

- (a) select a panel of auditors each of whom shall have practised as such in Ontario for not less than five years and shall be known as a panel auditor or members' auditor; and

- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission and the appointee shall be an auditor who has practised as such in Ontario for not less than ten years. R.S.O. 1950, c. 351, s. 33.

Audits by  
stock  
exchanges  
and associa-  
tions

**34.**—(1) Every stock exchange, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under section 33 and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

Auditing  
by-laws, etc.,  
to be  
satisfactory  
to Commis-  
sion

(2) The by-laws, rules and regulations of every stock exchange in Ontario, the rules and regulations of the Central District of the Investment Dealers' Association of Canada and the regulations of the Broker-Dealers' Association of Ontario in respect of the practice and procedure of the examinations under subsection 1 and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1950, c. 351, s. 34.

Annual  
financial  
statement,  
filing

**35.** Every registered broker, investment dealer and broker-dealer whose financial affairs are not subject to examination under section 34 shall keep such books and records as are necessary for the proper recording of his or its business transactions and financial affairs and shall file with the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his or its financial position, certified by such broker, investment dealer or broker-dealer, or an officer or partner thereof, and reported upon by the auditors of such broker, investment dealer, or broker-dealer, and such other information as the Commission may require in such form as it may prescribe. R.S.O. 1950, c. 351, s. 35.

Commis-  
sion to  
make audits

**36.**—(1) Notwithstanding anything in sections 33, 34 and 35, the Commission or any person to whom as its representative it may in writing delegate such authority may at any time make an examination of the financial affairs of any person or company registered under this Act or any person or company whose securities have been the subject of a filing with the Commission, and prepare a balance sheet as of the date of such

examination and such other statements and reports as may be required by the Commission.

(2) The Commission or any person making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination. <sup>Access to books, securities, etc.</sup>

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1950, c. 351, s. 36. <sup>Fees</sup>

## PART VI

### PROSPECTING SYNDICATES AND SECURITIES ISSUED BY A PERSON

**37.**—(1) Upon the acceptance for filing of a prospecting <sup>Agreements</sup> syndicate agreement by the Commission, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

- (a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties or any combination thereof;
- (b) the agreement clearly sets out,
  - (i) the purpose of the syndicate,
  - (ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,
  - (iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by any person as commission upon the sale of units in the syndicate,
  - (iv) the maximum number of units in the syndicate, not exceeding  $33\frac{1}{3}$  per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,
  - (v) the location of the head office of the syndicate and that the head office shall at all times

be maintained in Ontario and that the Commission and the unit holders of the syndicate shall be notified immediately of any change in the location of the head office,

- (vi) that any person holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,
  - (vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by a vote of at least two-thirds of the units of the syndicate that have been sold for cash,
  - (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,
  - (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Commission and to each unit holder annually,
  - (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Commission and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,
  - (xi) that no securities, other than those of the syndicate's own issue, or no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by a vote of at least two-thirds of the issued units of the syndicate other than escrowed units; and
- (c) the agreement limits the capital of the syndicate to a sum not exceeding \$35,000.

Commission  
may file

(2) The Commission may in its discretion accept for filing any agreement submitted for filing under this section and is not required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1.



(3) Where a prospecting syndicate agreement is accepted for filing under this section, the requirements of *The Partnerships Registration Act* as to filing do not apply thereto. R.S.O. 1960, c. 289, not to apply

(4) No person or company registered for trading in securities under this Act shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. Prohibition of trading in securities issued by syndicate

(5) No person or company registered for trading in securities under this Act shall trade in a security issued by a person, other than a prospecting syndicate, either as agent for such person or as principal unless, Trading in securities issued by person

(a) written permission, upon such terms as the Commission may require, has been obtained from the Commission; and

(b) information satisfactory to the Commission relating to such person and such security has been accepted for filing by the Commission. R.S.O. 1950, c. 351, s. 37.

## PART VII

### TRADING IN THE SECURITIES OF A MINING COMPANY

**38.**—(1) No person or company shall trade in any security issued by a mining company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the mining company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth, Trades in a security issued by a mining company on primary distribution to the public

1. the full name of the company and the address of the head office;
2. the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;
3. the officers, directors and promoters giving in each case the name in full, present occupation and home address in full;

4. the name and address of the auditors;
5. the name and address of every registry and transfer agency;
6. the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
7. the particulars in respect of any bonds, or debentures outstanding or proposed to be issued;
8. the number of shares or other securities held in escrow, the name of the trustee and a summary of the provisions of the escrow agreement including the proposed plan of release from escrow;
9. the shares sold for cash to date tabulated under each class of shares as follows:
  - i. the number of shares sold, separately listed as to price,
  - ii. the total cash received for the shares sold, and
  - iii. the commissions paid on the sale of the shares;
10. the particulars of securities, other than shares, sold for cash to date as follows:
  - i. the securities sold,
  - ii. the total cash received for the securities sold, and
  - iii. the commissions paid on the sale of the securities;
11. the number of shares issued or to be issued or cash paid or to be paid to any promoter with his name and address and the consideration for the payment;
12. particulars as follows:
  - i. the official designation and location of all properties, showing whether owned, leased or held under option or intended to be acquired by the company and all material facts relating to leases or options,
  - ii. the names and addresses of all vendors of property purchased or intended to be purchased by the company, showing the consideration paid or intended to be paid to each vendor, and the property acquired from each, and

- iii. the names and addresses in full of every person or company who has received or is to receive from any vendor a greater than 5 per cent interest in the shares or other consideration received or to be received by the vendor;
13. the particulars relating to all properties as follows:
- i. the means of access thereto,
  - ii. the character, extent and condition of any underground exploration and development and any underground plant and equipment, and if none so state,
  - iii. the character, extent and condition of any surface exploration and development and any surface plant and equipment, and if none so state,
  - iv. the known history of the property, and
  - v. a description of any work done and improvements made by the present management, and if none so state;
14. the particulars of the securities, if any, covered by option agreements or underwriting agreements outstanding or proposed to be given and particulars of sub-option agreements or sub-underwriting agreements outstanding or proposed to be given and particulars of any assignments or proposed assignments of any such agreements and the price or prices at which and the date or dates by which the option agreements or underwriting agreements must be exercised, showing the name of the optionee and where the optionee is a company, syndicate or partnership, the names of all persons having more than 5 per cent interest therein, and the name and address of the person for or on whose behalf the option agreement or underwriting agreement has been entered into;
15. the details of future development and exploration plans of the management showing how it is proposed to expend the proceeds from current sales of securities;
16. where a company has not been incorporated for more than one year prior to the date of the statement, the amount or estimated amount of preliminary expenses showing administrative and development expenses

separately, including the amount already expended and the estimated future expenditures in each case;

17. the amount and general description of any indebtedness to be created or assumed, which is not shown in a balance sheet filed with the Commission, and also particulars of the security, if any, given or to be given for such indebtedness;
18. particulars as follows:
  - i. the principal business in which each director or officer has been engaged during the past three years and giving the length of time, position held and name of company or firm,
  - ii. the nature and extent of the interest, direct or indirect, which any director or officer of the company, whether personally or as a partner in a firm, has ever had in any property acquired or to be acquired by the company, and
  - iii. the aggregate remuneration paid by the company during the last financial year, and estimated to be paid or payable during the current financial year to directors and, separately stated, to officers;
19. the particulars of dividends, if any, paid during the last five years;
20. the names and addresses of the persons who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position or are entitled to elect or cause to be elected a majority of the directors of the company;
21. any other material facts not disclosed in the foregoing;
22. a certification to be signed by the directors and promoters of the company in the following form:  
*The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 38 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required; and*
23. a certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material*

*facts in respect of the offering of securities referred to above as required by section 38 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.*

(2) A full and up-to-date report on the property of the mining company and the development thereof made by a person who in the opinion of the Commission is a qualified mining engineer, geologist or prospector, certified by such person stating,

Report on  
mining  
companies

- (a) the address and occupation of such person;
- (b) the qualifications of such person;
- (c) any interest that such person may have either directly or indirectly or that he may expect to receive either directly or indirectly in the property or securities;
- (d) whether or not the report is based on personal examination;
- (e) the date of any such examination; and
- (f) where not personally examined the source of information contained in the report,

shall accompany the prospectus required under subsection 1.

(3) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

Commission  
to be notified  
of primary  
distribution  
to the public

(4) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

Signing  
by agent;  
non-avail-  
ability of  
director

(5) Every underwriter and optionee is entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. R.S.O. 1950, c. 351, s. 38 (1-5).

Responsi-  
bility of  
underwriter,  
optionee

(6) A prospectus of a mining company shall be accompanied by,

Financial  
statements

- (a) an earnings statement of the company and, unless the Commission otherwise directs, of all its subsidiaries, showing all profits or losses and the nature and source thereof year by year for the last five completed financial years of the company and any part of a subsequent financial year to the date at which the balance sheet required by clause *b* is made up, or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and
- (b) a balance sheet of assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at a date not more than 120 days before the date of the prospectus or such other date as the Commission may accept.

Idem

(7) Where the proceeds of the securities offered by the prospectus of a mining company are to be applied in whole or in part directly or indirectly in the purchase of one or more businesses, the prospectus shall be accompanied by,

- (a) a *pro forma* statement combining the net profits or net losses of the business or businesses with those of the company or companies covered by the earnings statement for the years and period mentioned in clause *a* of subsection 6 or, if the Commission so requires, a statement showing all profits or losses and the nature and source thereof of the business or businesses year by year for the last five completed financial years of the business or businesses and any part of a subsequent year to the date to which the balance sheet required by clause *b* of subsection 6 is made up, or to such other date or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and
- (b) a *pro forma* balance sheet showing the assets to be acquired and the liabilities to be assumed and the assets and liabilities of the company or companies covered by the balance sheet mentioned in clause *b* of subsection 6 as at the date at which the balance sheet is made up or, if the Commission so requires, a statement showing the assets to be acquired and the liabilities to be assumed.

Idem

(8) Every balance sheet and *pro forma* balance sheet of a mining company shall show separately the shares of capital stock issued for cash and the value at which the shares were issued, the shares of capital stock issued for properties, claims

or leases and the value at which the shares were issued, the shares of capital stock issued for other consideration and the value at which the shares were issued and shall be accompanied by analyses of deferred charges where, in the opinion of the Commission, such deferred charges are significant.

(9) The Commission may require the prospectus of a <sup>Idem</sup> mining company to be accompanied by a *pro forma* balance sheet showing the assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at the date at which the balance sheet required by clause *b* of subsection 6 is made up, giving effect to the sale, issue or redemption of securities issued or to be issued by the company and to such other transactions as the Commission may require.

(10) Where the Commission directs that profits or losses <sup>Idem</sup> of a subsidiary or subsidiaries of a mining company shall not be included in the earnings statement unless the Commission otherwise directs, there shall be set out therein, by note or otherwise, the interest of the company in the profits or losses of the subsidiary or subsidiaries and the extent to which that interest has been included in the earnings statement for the years and period covered by the statement.

(11) Where, before the date of the prospectus, a mining <sup>Idem</sup> company that has carried on business for less than five years acquires control of a business that has been carried on for a longer period than the business of the company, for the purposes of clause *a* of subsection 6, the company is deemed to have carried on business for the same period as the business acquired.

(12) Every earnings statement, balance sheet, *pro forma* <sup>Idem</sup> statement and *pro forma* balance sheet mentioned in subsections 6, 7 and 9, and any other financial statement or *pro forma* financial statement accompanying the prospectus, shall be drawn up in such manner and contain such information as the Commission may from time to time require.

(13) Every earnings statement, balance sheet, *pro forma* <sup>Approval of financial statements by board of directors</sup> statement and *pro forma* balance sheet mentioned in subsections 6, 7 and 9 shall be approved by the board of directors and the approval evidenced by the signatures at the foot of every balance sheet and every *pro forma* balance sheet of two or more directors authorized to signify such approval.

(14) The auditor or accountant eligible for appointment as <sup>Examination by auditor or accountant</sup> auditor of a mining company shall make such examination as will enable him to report as required by subsection 15.

Report of  
auditor or  
accountant

(15) A prospectus of a mining company shall be accompanied by a report by the auditor of the company or, where the Commission permits, by an accountant eligible for appointment as auditor of the company, upon every earnings statement, *pro forma* statement, balance sheet and *pro forma* balance sheet that accompanies a prospectus.

Contents of  
report of  
auditor or  
accountant

(16) The auditor or accountant shall state in the report whether in his opinion,

- (a) every earnings statement presents fairly the results of the operations for the years and period covered;
- (b) every balance sheet presents fairly the financial position as at the date at which it is made up;
- (c) every *pro forma* statement presents fairly, after giving effect to the assumptions on which it is based, the results of the operations for the years and period covered;
- (d) every *pro forma* balance sheet presents fairly, after giving effect to the assumptions on which it is based, the financial position as at the date at which it is made up.

Auditor or  
accountant  
to be accept-  
able to  
Commission  
Consent by  
auditor or  
accountant  
to use of  
report

(17) The auditor or accountant shall be a person acceptable to the Commission.

(18) There shall be filed with the Commission, in the form that the Commission requires, a consent by the auditor or accountant to the use of his report required under subsection 15. 1956, c. 81, s. 3.

Corrections

(19) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within twenty days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter is final.

New  
prospectus,  
report and  
statements  
required  
after  
expiration of  
twelve  
months

(20) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress twelve months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the report required under subsection 2 and the



financial statements required under subsection 6 shall be filed with the Commission within twenty days from the expiration of such twelve-month period. R.S.O. 1950, c. 351, s. 38 (9, 10).

## PART VIII

### TRADING IN THE SECURITIES OF AN INDUSTRIAL COMPANY

**39.**—(1) No person or company shall trade in any security issued by an industrial company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the industrial company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

Trades in a security issued by an industrial company on primary distribution to the public

1. the full name of the company and the address of the head office;
2. the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;
3. the general nature of the business actually transacted or to be transacted;
4. the officers and directors giving in each case the name in full, present occupation and home address in full;
5. the name and address of the auditors;
6. the name and address of every registry and transfer agency;
7. the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
8. where shares are offered, a description of respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits or capital of each class of shares, including redemption rights, and rights on liquidation or distribution of capital assets,

provided that it is not necessary to set out such description in respect of any class of shares that will be wholly redeemed or cancelled prior to, contemporaneously with or out of the proceeds of the issue of the shares offered or any provisions relating to any shares that will have ceased to be effective prior to or contemporaneously with the issue of the shares offered;

9. the particulars in respect of any bonds, or debentures outstanding or proposed to be issued, and of any other securities issued or proposed to be issued, which if issued will rank ahead of or *pari passu* with the securities offered;
10. the amount and general description of any substantial indebtedness to be created or assumed, which is not shown in the balance sheet filed with the Commission and also particulars of the security, if any, given or to be given for such indebtedness;
11. the particulars of the securities, if any, covered by options outstanding or proposed to be given by the company and the price or prices at which and the date or dates by which the options must be exercised, showing the name of the original grantee of the option and where the original grantee is a company, syndicate or partnership, the names of all persons having more than a 5 per cent interest therein, provided that where options are evidenced by instruments in bearer or transferable form capable of being freely bought and sold, then to the extent that the options have been or are to be made available to a class of holders of securities of the company, or have been or are to be offered in the course of a primary distribution to the public it is not necessary to disclose the names of the grantees except where the grantee is an underwriter;
12. the number of securities of each class, that in the case of obligations shall bear an appropriate and correct descriptive title, offered and the issue price and the terms thereof and in the case of a second or subsequent offer of securities the amount offered for subscription on each previous offer within the two preceding years and the amount actually issued and the amount paid up thereon, specifying the amounts received in cash or other consideration respectively and the commission, if any, paid or payable;

13. the estimated net proceeds to be derived from the securities offered on the basis of such securities being fully taken up and paid for;
14. the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the securities offered are to supply funds and if the funds are to be raised in part from other sources the amount thereof and the sources thereof shall be stated, and particulars of any provision made for the holding in trust of the proceeds of the issue of the securities offered pending or subject to the fulfilment of any conditions;
15. where shares are offered by the company or an underwriter, the minimum amount, if any, that in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided for the following matters:
  - i. the purchase price of any property purchased or to be purchased that is to be defrayed in whole or in part out of the proceeds of the issue,
  - ii. any preliminary expenses payable by the company,
  - iii. any commission payable by the company to any person in consideration of his agreeing to subscribe for or procuring or agreeing to procure subscriptions for any shares in the company,
  - iv. the repayment of any moneys borrowed by the company in respect of the foregoing matters, and
  - v. the repayment of bank loans, if any;
16. the particulars showing the date of and the parties to the agreement, if any, with an underwriter in respect of the securities offered and the remuneration of or price payable by the underwriter for the securities offered;
17. any provisions of the by-laws as to the remuneration of the directors;
18. the aggregate remuneration paid by the company during its last financial year, if completed at least three months prior to the offer, and estimated to be

paid or payable during the current financial year or, if such remuneration is not capable of approximate estimation then the basis of determining it, to directors of the company and, separately stated, to officers of the company who individually have received or may be entitled to receive remuneration in excess of \$10,000 per annum;

19. the amount, if any, paid within the two preceding years or payable as a commission by the company for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in or obligations of the company, or the rate of any such commission;
20. in the case of a company that has not been carrying on business for more than one year, the amount or estimated amount of the preliminary expenses;
21. the particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, the purchase price of which is to be defrayed in whole or in part out of the proceeds of the issue or has been paid within the last two preceding years or is to be paid in whole or in part in securities of the company, or the purchase or acquisition of which has not been completed at the date of the statement and the nature of the title or interest therein acquired or to be acquired by the company, provided that this clause does not apply to transactions entered into in the ordinary course of operations or on the general credit of the company;
22. the names and addresses of the vendors of any property under paragraph 21 and the amount, specifying separately the amount, if any, for goodwill, paid or payable in cash or securities of the company to the vendors for the property and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor, provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors, and provided further that where the property consists of securities of any other company purchased or acquired or proposed to be purchased or acquired by the company on substantially similar terms from more than twenty-five separate vendors it is sufficient to state the nature and terms of the transaction with particulars of the name and address of each person who is the vendor of securities aggregating more than 10 per cent of the

- total amount of the securities so purchased or acquired or proposed to be purchased or acquired;
23. the number and amount of securities that, within the two preceding years, have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those securities have been issued or are proposed or intended to be issued;
  24. where obligations are offered, particulars of the security, if any, that has been or will be created for such obligations, specifying the property, if any, comprised or to be comprised in the security and the nature of the title to the property and, if more than 25 per cent in value of the property consists or is to consist of shares or obligations, particulars of the rights, if any, of the company to substitute other shares or obligations;
  25. the particulars of any services rendered or to be rendered to the company that are to be paid for by the company wholly or partly out of the proceeds of the securities offered or have been within the last two preceding years or are to be paid for by securities of the company exclusive of commissions to be disclosed under paragraph 15 and amount included under paragraph 19 and amount included under paragraph 23;
  26. the amount paid within the two preceding years or intended to be paid to any promoter with his name and address and the consideration for such payment;
  27. the dates of and the parties to and the general nature of every material contract entered into within the two preceding years, and a reasonable time and place at which any such material contract or a copy thereof may be inspected, but this requirement does not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company;
  28. full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in any property acquired by the company within the preceding two years or proposed to be acquired by the company, or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to

him or to the firm in cash or securities or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company, but this paragraph does not apply in the case of a statement issued more than one year after the date at which the company commenced business, except as to the particulars relating to property proposed to be acquired by the company;

29. in the case of a company that has been carrying on business for less than three years, the length of time during which the business of the company has been carried on, and, if the company has acquired or proposes to acquire, either by direct acquisition or indirectly by ownership of shares or otherwise, a business that has been carried on for less than three years, also the length of time during which such business has been carried on;
30. where shares are offered, the names and addresses of the persons, if known, who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position to, or are entitled to, elect or cause to be elected a majority of the directors of the company;
31. where any securities of the company of the same class as those offered are held in escrow, particulars of the number and description thereof, the name of the depository, the date on which and the conditions, if any, governing the release of such securities from escrow;
32. where shares are offered, particulars of dividends, if any, paid during the five years preceding the date of the statement;
33. any other material facts not disclosed in the foregoing;
34. a certification to be signed by the directors and promoters of the company in the following form: *The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 39 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required; and*

35. a certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 39 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.*

(2) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

Commission to be notified of primary distribution to the public

(3) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

Signing by agent; non-availability of director

(4) Every underwriter and optionee is entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. R.S.O. 1950, c. 351, s. 39 (1-4).

Responsibility of underwriter, optionee

(5) A prospectus of an industrial company shall be accompanied by,

Financial statements

- (a) an earnings statement of the company and, unless the Commission otherwise directs, of all its subsidiaries, showing all profits or losses and the nature and source thereof year by year for the last five completed financial years of the company and any part of a subsequent financial year to the date at which the balance sheet required by clause *b* is made up, or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and
- (b) a balance sheet of assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at a date not more than 120 days before the date of the prospectus or such other date as the Commission may accept.

Idem

(6) Where the proceeds of the securities offered by the prospectus of an industrial company are to be applied in whole or in part directly or indirectly in the purchase of one or more businesses, the prospectus shall be accompanied by,

- (a) a *pro forma* statement combining the net profits or net losses of the business or businesses with those of the company or companies covered by the earnings statement for the years and period mentioned in clause *a* of subsection 5 or, if the Commission so requires, a statement showing all profits or losses and the nature and source thereof of the business or businesses year by year for the last five completed financial years of the business or businesses and any part of a subsequent year to the date to which the balance sheet required by clause *b* of subsection 5 is made up, or to such other date or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years; and
- (b) a *pro forma* balance sheet showing the assets to be acquired and the liabilities to be assumed and the assets and liabilities of the company or companies covered by the balance sheet mentioned in clause *b* of subsection 5 as at the date at which the balance sheet is made up or, if the Commission so requires, a statement showing the assets to be acquired and the liabilities to be assumed.

Idem

(7) The Commission may require the prospectus of an industrial company to be accompanied by a *pro forma* balance sheet showing the assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at the date at which the balance sheet required by clause *b* of subsection 5 is made up, giving effect to the sale, issue or redemption of securities issued or to be issued by the company and to such other transactions as the Commission may require.

Idem

(8) Where the Commission directs that profits or losses of a subsidiary or subsidiaries of an industrial company shall not be included in the earnings statement, unless the Commission otherwise directs, there shall be set out therein, by note or otherwise, the interest of the company in the profits or losses of the subsidiary or subsidiaries and the extent to which that interest has been included in the earnings statement for the years and period covered by the statement.

Idem

(9) Where, before the date of the prospectus, an industrial company that has carried on business for less than five years acquires control of a business that has been carried on for a



longer period than the business of the company, for the purposes of clause *a* of subsection 5, the company is deemed to have carried on business for the same period as the business acquired.

(10) Every earnings statement, balance sheet, *pro forma* statement and *pro forma* balance sheet mentioned in subsections 5, 6 and 7, and any other financial statement or *pro forma* financial statement accompanying the prospectus, shall be drawn up in such manner and contain such information as the Commission may from time to time require. Idem

(11) Every earnings statement, balance sheet, *pro forma* statement and *pro forma* balance sheet mentioned in subsections 5, 6 and 7 shall be approved by the board of directors and the approval evidenced by the signatures at the foot of every balance sheet and every *pro forma* balance sheet of two or more directors authorized to signify such approval. Approval of financial statements by board of directors

(12) The auditor or accountant eligible for appointment as auditor of an industrial company shall make such examination as will enable him to report as required by subsection 13. Examination by auditor or accountant

(13) A prospectus of an industrial company shall be accompanied by a report by the auditor of the company or, where the Commission permits, by an accountant eligible for appointment as auditor of the company, upon every earnings statement, *pro forma* statement, balance sheet and *pro forma* balance sheet that accompanies a prospectus. Report of auditor or accountant

(14) The auditor or accountant shall state in the report whether in his opinion, Contents of report of auditor or accountant

- (a) every earnings statement presents fairly the results of the operations for the years and period covered;
- (b) every balance sheet presents fairly the financial position as at the date at which it is made up;
- (c) every *pro forma* statement presents fairly, after giving effect to the assumptions on which it is based, the results of the operations for the years and period covered;
- (d) every *pro forma* balance sheet presents fairly, after giving effect to the assumptions on which it is based, the financial position as at the date at which it is made up.

(15) The auditor or accountant shall be a person acceptable to the Commission. Auditor or accountant to be acceptable to Commission

(16) There shall be filed with the Commission, in the form that the Commission requires, a consent by the auditor or accountant to the use of his report required under subsection 13. 1956, c. 81, s. 4. Consent by auditor or accountant to use of report

## Corrections

(17) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within twenty days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter is final.

## New prospectus and statements required after expiration of twelve months

(18) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress twelve months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the financial statements required under subsection 5 shall be filed with the Commission within twenty days from the expiration of such twelve-month period. R.S.O. 1950, c. 351, s. 39 (9, 10).

## PART IX

## TRADING IN THE SECURITIES OF AN INVESTMENT COMPANY

## Trades in a security issued by an investment company on primary distribution to the public

**40.**—(1) No person or company shall trade in any security issued by an investment company either on his or its own account or on behalf of any other person or company where such trade would be in the course of a primary distribution to the public of such security until there has been filed with the Commission a prospectus, and a receipt therefor obtained from the registrar, which prospectus shall be dated and signed by every person who is, at the time of filing, a director or promoter of the investment company issuing the security or an underwriter or optionee of such security, and which prospectus shall contain a full, true and plain disclosure relating to the security issued and shall set forth,

1. the full name of the company and the address of the head office;
2. the laws under which the company was incorporated and stating whether incorporated by letters patent or otherwise and the date thereof, and if supplementary letters patent or a similar authority for variation of the letters patent or otherwise has been issued so stating with the date thereof;

3. the general nature of the business actually transacted or to be transacted giving full particulars of investment powers and duties;
4. the officers and directors giving in each case the name in full, present occupation and home address in full;
5. the names and home addresses in full of the persons constituting any investment advisory committee or similar body together with a concise statement of powers and duties, and giving the business experience of such persons for the preceding five years, and where such persons are officers or directors of other companies, so stating, giving the names of such companies;
6. the name and address of the auditors;
7. the name and address of every registry and transfer agency;
8. the particulars of the share capital authorized, issued and paid up, the number and classes of shares and the par value thereof, or if without par value so stating;
9. where shares are offered, a description of respective voting rights, preferences, conversion and exchange rights, rights to dividends, profits or capital of each class of shares, including redemption rights, and rights on liquidation or distribution of capital assets, provided that it is not necessary to set out such description in respect of any class of shares that will be wholly redeemed or cancelled prior to, contemporaneously with or out of the proceeds of the issue of the shares offered or any provisions relating to any shares that will have ceased to be effective prior to or contemporaneously with the issue of the shares offered;
10. the particulars in respect of any bonds, or debentures outstanding or proposed to be issued, and of any other securities issued or proposed to be issued, that if issued will rank ahead of or *pari passu* with the securities offered;
11. the names and addresses in full of any trustees and the particulars of any trustee agreements where assets are held to protect the liability to the public in respect of securities sold to the public and if not applicable so stating;

12. the amount and general description of any substantial indebtedness to be created or assumed, that is not shown in the balance sheet filed with the Commission and also particulars of the security, if any, given or to be given for such indebtedness;
13. the particulars of the securities, if any, covered by options outstanding or proposed to be given by the company and the price or prices at which and the date or dates by which the options must be exercised, showing the name of the original grantee of the option and where the original grantee is a company, syndicate or partnership, the names of all persons having more than a 5 per cent interest therein, provided that where options are evidenced by instruments in bearer or transferable form capable of being freely bought and sold, then to the extent that the options have been or are to be made available to a class of holders of securities of the company, or have been or are to be offered in the course of a primary distribution to the public it is not necessary to disclose the names of the grantees except where the grantee is an underwriter;
14. a brief description of the method by which the securities offered will be sold to the public;
15. the number of securities of each class, which in the case of obligations shall bear an appropriate and correct descriptive title, offered and the issue price and the terms thereof and in the case of a second or subsequent offer of securities the amount offered for subscription on each previous offer within the two preceding years and the amount actually issued and the amount paid up thereon, specifying the amounts received in cash or other consideration respectively and the commission, if any, paid or payable;
16. the estimated net proceeds to be derived from the securities offered on the basis of such securities being fully taken up and paid for;
17. the specific purposes in detail and the approximate amounts to be devoted to such purposes, so far as determinable, for which the securities offered are to supply funds and if the funds are to be raised in part from other sources the amount thereof and the sources thereof shall be stated, and particulars of any provision made for the holding in trust of the proceeds of the issue of the securities offered pending or subject to the fulfilment of any conditions;

18. where shares are offered by the company or an underwriter, the minimum amount, if any, which in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided for the following matters:
  - i. the purchase price of any property purchased or to be purchased that is to be defrayed in whole or in part out of the proceeds of the issue,
  - ii. any preliminary expenses payable by the company,
  - iii. any commission payable by the company to any person in consideration of his agreeing to subscribe for or procuring or agreeing to procure subscriptions for any shares in the company,
  - iv. the repayment of any moneys borrowed by the company in respect of the foregoing matters, and
  - v. the repayment of bank loans, if any;
19. the particulars showing the date of and the parties to the agreement, if any, with an underwriter in respect of the securities offered and the remuneration of or price payable by the underwriter for the securities offered;
20. any provisions of the by-laws as to the remuneration of the directors and of the persons constituting the investment advisory committee or similar body, if any;
21. the aggregate remuneration paid by the company during its last financial year, if completed at least three months prior to the offer, and estimated to be paid or payable during the current financial year or, if such remuneration is not capable of approximate estimation then the basis of determining it, to directors of the company and, separately stated, to officers of the company who individually have received or may be entitled to receive remuneration in excess of \$10,000 per annum;
22. the amount, if any, paid within the two preceding years or payable as a commission by the company for subscribing or agreeing to subscribe or procuring

- or agreeing to procure subscriptions for any securities of the company, or the rate of any such commission;
23. in the case of a company that has not been carrying on business for more than one year the amount or estimated amount of the preliminary expenses;
  24. the particulars of any property purchased or acquired by the company, or proposed to be purchased or acquired, the purchase price of which is to be defrayed in whole or in part out of the proceeds of the issue or has been paid within the last two preceding years or is to be paid in whole or in part in securities of the company, or the purchase or acquisition of which has not been completed at the date of the statement and the nature of the title or interest therein acquired or to be acquired by the company, provided that this paragraph does not apply to transactions entered into in the ordinary course of operations or on the general credit of the company;
  25. the names and addresses of the vendors of any property under paragraph 24 and the amount, specifying separately the amount, if any, for goodwill, paid or payable in cash or securities of the company to the vendors for the property and where there is more than one separate vendor or the company is a sub-purchaser, the amount so payable to each vendor, provided that where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors, and provided further that where the property consists of securities of any other company purchased or acquired or proposed to be purchased or acquired by the company on substantially similar terms from more than twenty-five separate vendors it is sufficient to state the nature and terms of the transaction with particulars of the name and address of each person who is the vendor of securities aggregating more than 10 per cent of the total amount of the securities so purchased or acquired or proposed to be purchased or acquired;
  26. the number and amount of securities that, within the two preceding years, have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those securities have been issued or are proposed or intended to be issued;
  27. where obligations are offered, particulars of the security, if any, that has been or will be created for

- such obligations, specifying the property, if any, comprised or to be comprised in the security and the nature of the title to the property and, if more than 25 per cent in value of the property consists or is to consist of shares or obligations, particulars of the rights, if any, of the company to substitute other shares or obligations;
28. the particulars of any services rendered or to be rendered to the company that are to be paid for by the company wholly or partly out of the proceeds of the securities offered or have been within the last two preceding years or are to be paid for by securities of the company exclusive of commissions to be disclosed under paragraph 18 and amount included under paragraph 22 and amount included under paragraph 26;
  29. the amount paid within the two preceding years or intended to be paid to any promoter with his name and address and the consideration for such payment;
  30. the dates of and the parties to and the general nature of every material contract entered into within the two preceding years, and a reasonable time and place at which any such material contract or a copy thereof may be inspected, but this requirement does not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company;
  31. full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in any property acquired by the company within the preceding two years or proposed to be acquired by the company or, where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or securities or otherwise by any person either to induce him to become, or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company, but this paragraph does not apply in the case of a statement issued more than one year after the date at which the company commenced business, except as to the particulars relating to property proposed to be acquired by the company;
  32. in the case of a company that has been carrying on business for less than three years, the length of time

during which the business of the company has been carried on, and, if the company has acquired or proposes to acquire, either by direct acquisition or indirectly by ownership of shares or otherwise, a business that has been carried on for less than three years, also the length of time during which such business has been carried on;

33. where shares are offered, the names and addresses of the persons, if known, who, by reason of beneficial ownership of securities of the company or any agreement in writing, are in a position to, or are entitled to, elect or cause to be elected a majority of the directors of the company;
34. the particulars of dividends, if any, paid during the five years preceding the date of the statement;
35. any other material facts not disclosed in the foregoing;
36. a certification to be signed by the directors and promoters of the company in the following form: *The foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 40 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required; and*
37. a certification to be signed by the underwriters and optionees in the following form: *To the best of my knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts in respect of the offering of securities referred to above as required by section 40 of The Securities Act (Ontario), and there is no further material information applicable other than in the financial statements or reports where required. In respect of matters which are not within my knowledge I have relied upon the accuracy and adequacy of the foregoing.*

Commission  
to be notified  
of primary  
distribution  
to the public

(2) No person or company shall engage in the primary distribution to the public of such a security as mentioned in subsection 1 until such person or company has notified the Commission in writing of his or its intention to engage in such primary distribution to the public.

Signing by  
agent; non-  
availability  
of director

(3) Any director, promoter, underwriter or optionee may sign a prospectus required under subsection 1 by his agent thereunto in writing lawfully authorized and where the Commission is satisfied upon evidence presented to it that any



director is for adequate cause not available to sign any such prospectus the Commission may dispense with the requirement for his signature.

(4) Every underwriter and optionee is entitled to rely upon the accuracy and adequacy of the disclosure made in any prospectus filed under subsection 1 except as regards any matters that are within the knowledge of the underwriter or optionee. R.S.O. 1950, c. 351, s. 40 (1-4). <sup>Responsibility of underwriter, optionee</sup>

(5) A prospectus of an investment company shall be accompanied by, <sup>Financial statements</sup>

- (a) an earnings statement of the company and, unless the Commission otherwise directs, of all its subsidiaries, showing all profits or losses and the nature and source thereof year by year for the last five completed financial years of the company and any part of a subsequent financial year to the date at which the balance sheet required by clause c is made up, or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years;
- (b) a statement showing each category of surplus of the company and, unless the Commission otherwise directs, of all its subsidiaries, for the years and period covered by the earnings statement; and
- (c) a balance sheet of assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at a date not more than 120 days before the date of the prospectus or such other date as the Commission may accept.

(6) Where the proceeds of the securities offered by the prospectus of an investment company are to be applied in whole or in part directly or indirectly in the purchase of one or more businesses, the prospectus shall be accompanied by, <sup>Idem</sup>

- (a) a *pro forma* statement combining the net profits or net losses of the business or businesses with those of the company or companies covered by the earnings statement for the years and period mentioned in clause a of subsection 5 or, if the Commission so requires, a statement showing all profits or losses and the nature and source thereof of the business or businesses year by year for the last five completed financial years of the business or businesses and any part of a subsequent year to the date to which the balance sheet required by clause c of subsection 5

is made up, or to such other date or for such shorter or longer period as the Commission may require, but not for a longer period than five additional years;

- (b) a *pro forma* balance sheet showing the assets to be acquired and the liabilities to be assumed and the assets and liabilities of the company or companies covered by the balance sheet mentioned in clause c of subsection 5 as at the date at which the balance sheet is made up or, if the Commission so requires, a statement showing the assets to be acquired and the liabilities to be assumed; and
- (c) a statement containing such further information as to each category of surplus of the company or companies or the business or businesses to be acquired as the Commission may require.

Idem

(7) Every balance sheet and *pro forma* balance sheet of an investment company shall include a statement, as at the date of the balance sheet, of the portfolio of investments of the company and all its subsidiaries and the statement shall be drawn up to classify investments as follows and show, for each class, the aggregate value at which each class of investment is carried on the books of the company and all its subsidiaries, the basis for that value, and the aggregate market value where obtainable:

- (a) securities of or guaranteed by the Government of Canada;
- (b) securities of or guaranteed by the government of any province of Canada;
- (c) securities of any municipal corporation in Canada;
- (d) securities of or guaranteed by any government in the Commonwealth or any colony or dependency thereof;
- (e) securities of or guaranteed by the government of any foreign country or state forming a portion of any foreign country;
- (f) mortgages and agreements for sale; and
- (g) other classes of securities listing each class and issue separately, and showing for each issue, where applicable, the quantity held, principal amount, maturity date, interest or dividend rate, cost, valuation on the books, basis for that value, and market value where obtainable;

provided that one group of investments, not more than 10 per cent of the aggregate value at which all investments in the

portfolio are carried on the books of the company and all its subsidiaries, may be listed in one amount as miscellaneous securities.

(8) The Commission may require the prospectus of an <sup>Idem</sup> investment company to be accompanied by a *pro forma* balance sheet showing the assets and liabilities of the company and, unless the Commission otherwise directs, of all its subsidiaries, as at the date at which the balance sheet required by clause *c* of subsection 5 is made up, giving effect to the sale, issue or redemption of securities issued or to be issued by the company and to such other transactions as the Commission may require.

(9) Where the Commission directs that the profits or <sup>Idem</sup> losses of a subsidiary or subsidiaries of an investment company shall not be included in the earnings statement, unless the Commission otherwise directs, there shall be set out therein, by note or otherwise, the interest of the company in the profits or losses of the subsidiary or subsidiaries and the extent to which that interest has been included in the earnings statement for the years and period covered by the statement.

(10) Where, before the date of the prospectus, an invest- <sup>Idem</sup> ment company that has carried on business for less than five years acquires control of a business that has been carried on for a longer period than the business of the company, for the purposes of clauses *a* and *b* of subsection 5, the company is deemed to have carried on business for the same period as the business acquired.

(11) Every earnings statement, balance sheet, *pro forma* <sup>Idem</sup> statement, *pro forma* balance sheet and statement of surplus mentioned in subsections 5, 6 and 8, and any other financial statement or *pro forma* financial statement accompanying the prospectus, shall be drawn up in such manner and contain such information as the Commission may from time to time require.

(12) Every earnings statement, balance sheet, *pro forma* <sup>Approval of financial statements by directors</sup> statement, *pro forma* balance sheet and statement of surplus mentioned in subsections 5, 6 and 8 shall be approved by the board of directors and the approval evidenced by the signatures at the foot of every balance sheet and every *pro forma* balance sheet of two or more directors authorized to signify such approval.

(13) The auditor or accountant eligible for appointment as <sup>Examination by auditor or accountant</sup> auditor of an investment company shall make such examination as will enable him to report as required by subsection 14.

Report of  
auditor or  
accountant

(14) A prospectus of an investment company shall be accompanied by a report by the auditor of the company or where the Commission permits by an accountant eligible for appointment as auditor of the company, upon every earnings statement, *pro forma* statement, balance sheet, *pro forma* balance sheet and statement of surplus that accompanies a prospectus.

Contents of  
report of  
auditor or  
accountant

(15) The auditor or accountant shall state in the report whether in his opinion,

- (a) every earnings statement presents fairly the results of the operations for the years and period covered;
- (b) every balance sheet presents fairly the financial position as at the date at which it is made up and the statement of the portfolio of investments mentioned in subsection 7 presents fairly the information which it purports to present;
- (c) every *pro forma* statement presents fairly, after giving effect to the assumptions on which it is based, the results of the operations for the years and period covered;
- (d) every *pro forma* balance sheet presents fairly, after giving effect to the assumptions on which it is based, the financial position as at the date at which it is made up and the statement of the portfolio of investments mentioned in subsection 7 presents fairly the information that it purports to present;
- (e) every statement of surplus presents fairly the transactions set out in the statement.

Auditor or  
accountant  
to be accept-  
able to  
Commission

(16) The auditor or accountant shall be a person acceptable to the Commission.

Consent by  
the auditor  
or account-  
ant to use  
of report

(17) There shall be filed with the Commission, in the form that the Commission requires, a consent by the auditor or accountant to the use of his report required under subsection 14. 1956, c. 81, s. 5.

Corrections

(18) Where a change occurs during the period of primary distribution to the public in any material fact contained in any prospectus, financial statement or report accepted for filing under this section, which is of such a nature as to render such prospectus, financial statement or report misleading, an amended prospectus, financial statement or report shall be filed within twenty days from the date the change occurs but, subject to any direction of the Commission, the amended prospectus shall be required to be signed only by the signatories to the original prospectus and where any change in

directors, promoters, underwriters or optionees has occurred since the filing of the original prospectus the decision of the Commission as to who shall be required to sign the amended prospectus or as to any like matter is final.

(19) Where primary distribution to the public of a security mentioned in subsection 1 is still in progress twelve months from the date of the last prospectus accepted for filing under subsection 1, a new prospectus as required under subsection 1 together with the financial statements required under subsection 5 shall be filed with the Commission within twenty days from the expiration of such twelve-month period. R.S.O. 1950, c. 351, s. 40 (8, 9).

New prospectus and statements required after expiration of twelve months

## PART X

### GENERAL PROVISIONS RELATING TO MINING, INDUSTRIAL, AND INVESTMENT COMPANIES

**41.** Sections 38, 39 and 40 do not apply to trades mentioned in paragraph 3 or 6 of subsection 1 of section 19 nor to securities, Exemptions

- (a) that are mentioned in subsection 2 of section 19;
- (b) that are listed and posted for trading on any recognized stock exchange where such securities are sold through such stock exchange;
- (c) that are traded or sold to the public except in the primary distribution thereof to the public;
- (d) from one person or company registered for trading in securities under this Act to another person or company registered for trading in securities under this Act where the purchasing person or company is acting as principal; or
- (e) that are exempted by the regulations. R.S.O. 1950, c. 351, s. 41.

**42.—**(1) Where doubt exists whether any trade proposed or intended to be made in a security would be in the primary distribution to the public of the security, the Commission may, upon the application of any of the parties thereto, determine whether the proposed or intended trade would be in the course of the primary distribution to the public of the security and rule accordingly, and such ruling is final and there is no appeal therefrom.

Doubt as to nature of trade

(2) Where doubt exists whether a primary distribution to the public of any security,

Doubt as to primary distribution

(a) has been concluded; or

(b) is currently in progress,

the Commission may determine the question and rule accordingly, and such ruling is final and there is no appeal therefrom. R.S.O. 1950, c. 351, s. 42.

Previously  
distributed  
securities,  
information

**43.**—(1) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of any company is unable to obtain from the company that is the issuer of such securities, information or material that is necessary for the purpose of complying with section 38, 39 or 40, as the case may be, the Commission may order the company that is the issuer of such securities to furnish to the person or company who or that proposes to make the distribution, such information and material as the Commission deems necessary for the purposes of the distribution upon such terms and subject to such conditions as it deems proper and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Act.

Inability  
to obtain  
signatures

(2) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of any company is unable to obtain any or all of the signatures to the prospectus as required under subsection 1 of section 38, subsection 1 of section 39 or subsection 1 of section 40, as the case may be, or otherwise to comply with section 38, 39 or 40, as the case may be, the Commission may, upon being satisfied that all reasonable efforts have been made to comply with section 38, 39 or 40, as the case may be, and that no person is likely to be prejudicially affected by the failure to comply, make such order, waiving any of the provisions of section 38, 39 or 40, as it deems advisable, upon such terms and subject to such conditions as it deems proper. R.S.O. 1950, c. 351, s. 43.

Acceptance;  
refusal of  
prospectus,  
statement  
or report

**44.** The Commission may in its discretion accept for filing any prospectus, financial statement or report or amended prospectus, financial statement or report submitted for filing under section 38, 39 or 40, as the case may be, and direct the registrar to issue a receipt therefor unless it appears to the Commission,

(a) that the prospectus, or any financial statement or report that is required to accompany the prospectus,

(i) fails to comply in any substantial respect with any of the requirements of section 38, 39 or 40, as the case may be, or

- (ii) contains any statement, promise or forecast that is misleading, false or deceptive, or
  - (iii) has the effect of concealing material facts; or
- (b) that an unconscionable consideration has been paid or given or is intended to be paid or given,
  - (i) for promotional purposes, or
  - (ii) for the acquisition of property; or
- (c) that the proceeds from the sale of the securities that are to be paid into the treasury of the company, together with other resources of the company, are insufficient to accomplish the objects indicated in the prospectus; or
- (d) that such escrow or pooling agreement as the Commission deems necessary or advisable with respect to securities issued for a consideration other than cash has not been entered into. R.S.O. 1950, c. 351, s. 44.

**45.** Where the Commission decides not to accept for filing <sup>Notice of refusal</sup> a prospectus submitted for filing under section 38, 39 or 40, as the case may be, it shall forthwith cause notice of such decision to be served upon the person who or company that has submitted the prospectus for filing. R.S.O. 1950, c. 351, s. 45.

**46.—(1)** Where it appears to the Commission subsequent <sup>Order to cease trading</sup> to the filing of a prospectus or an amended prospectus under section 38, 39 or 40, as the case may be, and the issue of a receipt therefor, that any of the circumstances set out in section 44 exist, it may order that all trading in the primary distribution to the public of the securities to which the prospectus relates, shall cease.

(2) A notice of every order made under this section shall be <sup>Notice of order</sup> served upon the person who or company that filed the prospectus and upon every person or company registered for trading in securities under this Act who or that has notified the Commission of his or its intention to engage in the primary distribution to the public of the securities, and forthwith upon the receipt of the notice,

- (a) no further trades shall be made in the primary distribution to the public of the securities named in the order by any person or company; and
- (b) the prospectus or amended prospectus in question shall, for the purposes of this Act, be deemed not to be filed with the Commission and any receipt received therefor shall be deemed to be revoked.

Presumption  
of receipt

(3) Where a notice is sent by prepaid post under subsection 2, it shall be presumed to be received by the person or company to whom it is addressed in the ordinary course of post. R.S.O. 1950, c. 351, s. 46.

Delivery of  
prospectus  
to purchaser

**47.**—(1) Every person or company registered for trading in securities under this Act who receives from any person an order or subscription for a security to which section 38, 39 or 40 is applicable after having solicited such person to purchase such security shall, before entering into a contract for the sale of such security and before accepting payment or receiving any security under any such contract or in anticipation of making such a contract, deliver or cause to be delivered to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

- (a) a copy of the last financial statements and reports accepted for filing by the Commission, where financial statements and reports are required to be filed; and
- (b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed.

Prospectus  
to be  
delivered to  
purchaser of  
securities

(2) Every person or company registered for trading in securities under this Act who receives from any person an order or subscription for a security to which section 38, 39 or 40 is applicable and who has not solicited such person to purchase such security shall, at any time not later than the delivery of the written confirmation of the sale of such security, deliver or cause to be delivered to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

- (a) a copy of the last financial statements and reports accepted for filing by the Commission, where financial statements and reports are required to be filed; and
- (b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed.

When section  
not  
applicable

(3) This section is not applicable to,

- (a) a trade through a person or company registered for trading in securities under this Act who is not engaged in the primary distribution to the public of the security but is acting as the agent of the purchaser; or



- (b) a sale by a person who is not engaged in the primary distribution to the public of the security. R.S.O. 1950, c. 351, s. 47.

**48.—**(1) Notwithstanding section 47, every person or company to which that section applies and that delivers to any person a circular, pamphlet or letter soliciting him to purchase or offering to sell him a security to which section 38 applies, may, with the first such circular, pamphlet or letter delivered to such person, deliver a copy of a concise statement of facts taken from the prospectus, financial statements and reports required under section 38 that is acceptable to the Commission, and such statement shall contain a notice at the end thereof in easily legible letters which shall not be smaller than the letters in the main portion thereof, that a copy of the prospectus will be sent on request.

(2) Every person or company that acts under subsection 1 and that receives from a person to whom the concise statement of facts mentioned therein was delivered, an order or subscription for a security to which section 38 applies, shall at any time not later than delivery of the written confirmation of the sale of such security, deliver to such person a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with,

- (a) a copy of the last financial statements and reports accepted for filing by the Commission where financial statements and reports are required to be filed; and
- (b) a fair and accurate summary of the report on the property of the company and the development thereof, with any corrections, where the report is required to be filed. 1952, c. 96, s. 1.

**49.—**(1) A person who has entered into a contract to which section 47 applies is entitled to rescission of the contract where,

- (a) section 47 has not been complied with;
- (b) written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within,
- (i) seven days of the date of the delivery of a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with a copy of the financial statements and reports and summary of report, where required, provided that the date of

such delivery is within sixty days of the date of the delivery of the written confirmation of the sale of the security, or

- (ii) sixty days of the date of the delivery of the written confirmation of the sale of the security provided that at the time such notice of exercising the right of rescission is served, a copy of the prospectus or amended prospectus, whichever is the last filed with the Commission, together with a copy of the financial statements and reports and summary of the report, where required, have not been delivered; and

(c) the purchaser is still the owner of the security.

Onus

(2) In an action for rescission to which this section applies, the onus of proving compliance with section 47 is upon the person or company registered for trading in securities under this Act.

Period of limitation

(3) No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1. R.S.O. 1950, c. 351, s. 48.

## PART XI

### PROVISIONS RELATING TO TRADING IN SECURITIES GENERALLY

Term of contract declared unreasonable

**50.** No term in a contract between a person or company registered for trading in securities under this Act who acts as an agent, and a customer relating to any right of such person or company registered for trading in securities under this Act in respect of any security, is binding upon the customer where the Commission has declared such right to be unreasonable by notice in writing sent by registered mail to such person or company registered for trading in securities under this Act and to every stock exchange operating in Ontario, the Central District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario. R.S.O. 1950, c. 351, s. 49.

Confirmation to customers

**51.—(1)** Every broker who has acted as agent for a customer in the purchase or sale of a security upon a stock exchange shall promptly send or deliver to the customer a written confirmation of the transaction setting forth,

(a) the quantity and description of the security;

- (b) the consideration;
- (c) the name of the person or company from or to or through whom the security was bought or sold;
- (d) the day, and the name of the stock exchange, upon which the transaction took place; and
- (e) the commission charged in respect of the purchase or sale. R.S.O. 1950, c. 351, s. 50.

(2) Clause *c* of subsection 1 need not be complied with if <sup>Idem</sup> the written confirmation contains a statement that the name of the person or company from or to or through whom the security was bought or sold will be furnished to the customer upon request. 1956, c. 81, s. 6.

**52.** Every person or company registered for trading in securities under this Act who has acted either as principal or agent in connection with any trade in a security other than a trade upon a stock exchange shall promptly send to each customer a written confirmation of the transaction setting forth, <sup>Confirmation of unlisted trades</sup>

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) whether or not the person or company registered for trading in securities under this Act is acting as principal or agent;
- (d) the commission, if any, charged in respect of the purchase or sale;
- (e) the name of the salesman, if any, in the transaction; and
- (f) the day upon which the transaction took place. R.S.O. 1950, c. 351, s. 51.

**53.—(1)** No person shall,

- (a) call at any residence; or
- (b) telephone from within Ontario to any residence within or outside of Ontario,

<sup>Calling at or telephoning residence</sup>

for the purpose of trading in any security with any member of the public.

(2) Subsection 1 does not apply,

<sup>Exceptions</sup>

- (a) where the person calls at or telephones to the residence,

- (i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person calling or telephoning has been in the habit of trading in securities, or
- (ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person so calling or telephoning, but in such case the person so calling or telephoning shall call or telephone only in reference to that security; or

(b) to a trade or trades in any securities in respect of which registration is not required under this Act.

Interpre-  
tation

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. R.S.O. 1950, c. 351, s. 52.

Prohibition  
of repre-  
sentations

**54.**—(1) No person or company, with the intention of effecting a trade in a security other than a security that carries a right of redemption or repurchase by the person or company issuing such security, shall make any representation, written or oral, that he or it or any person or company,

(a) will resell or repurchase; or

(b) will refund all or any of the purchase price of,

any such security in which he or it is trading.

Promises

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security.

Representa-  
tion that  
security  
will be listed  
on stock  
exchange

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Commission, make any representation, written or oral, that such security will be listed on any stock exchange or that application has or will be made to list such security upon any stock exchange. R.S.O. 1950, c. 351, s. 53.

Notice where  
acting as  
principal

**55.**—(1) Where a person or company registered for trading in securities under this Act, with the intention of effecting a trade in a security with any person other than a person registered for trading in securities under this Act, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such person or company shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any

such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract.

(2) Where a person or company registered for trading in securities under this Act, with the intention of effecting a trade in a security with any person other than a person registered for trading in securities under this Act, makes an oral offer or invitation for an offer to any person and effects such trade as a principal, such person or company shall state in a written confirmation of the contract that he or it has acted as principal. Written confirmation

(3) A statement made in compliance with this section that a person or company registered for trading in securities under this Act proposes to act or has acted as principal in connection with a trade in a security does not prevent such person or company from acting as agent in connection with a trade in such security. Where acting as agent

(4) This section does not apply to, When section not applicable

(a) trades mentioned in subsection 1 of section 19; or

(b) securities described in subsection 2 of section 19.

R.S.O. 1950, c. 351, s. 54.

**56.**—(1) A person who has entered into a contract to which subsection 1 of section 55 applies is entitled to rescission of the contract where subsection 1 of section 55 has not been complied with and written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within sixty days of the date of the delivery of the security to or by such person, as the case may be, and in the case of a purchase by such person, he is still the owner of the security purchased. Rescission of contract

(2) A person who has entered into a contract to which subsection 2 of section 55 applies is entitled to rescission of the contract where subsection 2 of section 55 has not been complied with and written notice of exercising the right of rescission is served on the person or company registered for trading in securities under this Act within seven days of the date of the delivery of the written confirmation of the contract and in the case of purchase by such person, he is still the owner of the security purchased. Idem

(3) In an action for rescission to which this section applies, the onus of proving compliance with section 55 is upon the person or company registered for trading in securities under this Act. Onus

Period of  
limitation

(4) No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1 or 2. R.S.O. 1950, c. 351, s. 55.

Disclosure  
of financial  
interest by  
investment  
counsel and  
securities  
advisers

**57.** Every registered investment counsel and securities adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him or it, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or it may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof including,

- (a) any ownership, beneficial or otherwise, that he or it may have in such securities or in any securities issued by the same company;
- (b) any option that he or it may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that he or it has received or may expect to receive from any person or company registered for trading in securities under this Act or otherwise in connection with any trade in such securities;
- (d) any financial arrangement that he or it may have with any person or company registered for trading in securities under this Act relating to such securities; and
- (e) any financial arrangement that he or it may have with any underwriter or other person who has any interest in the securities. 1953, c. 97, s. 7.

Publication  
of names

**58.** Every partnership or company registered for trading in securities under this Act shall publish the name of every person having an interest, either directly or indirectly, to the extent of not less than 10 per cent in the capital of the partnership or company, as the case may be, on all letterheads, circulars and other stationery upon which the name of the partnership or company appears and that contain any offer or solicitation respecting a trade in securities. R.S.O. 1950, c. 351, s. 57.

Use of name  
of another  
registered  
person or  
company

**59.** No person or company registered under this Act shall use the name of another person or company registered under this Act on letterheads, forms, advertisements or signs, as

correspondent or otherwise, unless he or it is a partner, officer or agent of or is authorized so to do in writing by the other person or company registered under this Act. R.S.O. 1950, c. 351, s. 58.

**60.** No person or company shall hold himself or itself out as being registered under this Act by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he or it is so registered. R.S.O. 1950, c. 351, s. 59. Registration  
not to be  
advertised

**61.** No person or company who is not registered under this Act shall, either directly or indirectly, hold himself or itself out as being so registered. R.S.O. 1950, c. 351, s. 60. Holding  
out by  
unregistered  
persons

**62.** No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any person or company registered under this Act or upon the merits of any security. R.S.O. 1950, c. 351, s. 61. Advertising  
Commis-  
sion's  
approval

**63.—(1)** Where a person, or a member or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a person or company registered for trading in securities under this Act with any customer to buy and carry upon margin any securities of any person or company either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same person or company for any account in which, Margin  
contracts

- (a) he;
- (b) his firm or a partner thereof; or
- (c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the person or company registered for trading in securities under this Act or under his or its control in the ordinary course of business below the amount of such securities that he or it should be carrying for all customers, any such contract with a customer shall at the option of the customer be void, and the customer may recover from the person or company registered for trading in securities under this Act, all moneys paid with interest thereon or securities deposited in respect thereof.

**(2)** The customer may exercise such option by a registered letter to that effect addressed to the person or company registered for trading in securities under this Act, at his or its address for service in Ontario. R.S.O. 1950, c. 351, s. 62. Exercise  
of option

## PART XII

## OFFENCES AND PENALTIES

## Offences

**64.**—(1) Every person, including any officer, director, official or employee of a company, who is knowingly responsible for,

- (a) any fictitious or pretended trade in any security;
- (b) any course of conduct or business that is calculated or put forward with intent to deceive the public or the purchaser or the vendor of any security as to the nature of any transaction or as to the value of such security;
- (c) the making of any material false statement in any application, information, statement, material or evidence submitted or given to the Commission, its representative, the registrar or any person appointed to make an investigation or audit under this Act, under this Act or the regulations;
- (d) the furnishing of false information in any report, statement, return, balance sheet or other document required to be filed or furnished under this Act or the regulations;
- (e) the commission of any act or failure to perform any act where such commission or failure constitutes a contravention of any provision of this Act or the regulations; or
- (f) failure to observe or comply with any order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or both.

## Companies

(2) Subsection 1 shall be deemed to apply, *mutatis mutandis*, to any company save that the fines may be increased in the discretion of the magistrate to a sum of not more than \$25,000. R.S.O. 1950, c. 351, s. 63.

## Parties to offences

(3) Every person or company is a party to and guilty of an offence under this Act,

- (a) that actually commits the offence;
- (b) that does or omits an act for the purpose of aiding another person or company in the commission of the offence;



- (c) that abets another person or company in the commission of the offence; or
- (d) that counsels or procures another person or company to commit the offence.

(4) Every person or company that counsels or procures <sup>Idem</sup> another person or company to be a party to an offence under this Act of which that other person or company is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled or procured.

(5) Every person or company that counsels or procures <sup>Idem</sup> another person or company to be a party to an offence under this Act is a party to every other offence under this Act which that other person or company commits in consequence of such counselling or procuring and which the person or company counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring. 1953, c. 97, s. 8.

**65.**—(1) No proceedings under section 64 shall be instituted except with the consent or under the direction of the <sup>Consent before action</sup> Attorney General. R.S.O. 1950, c. 351, s. 64 (1).

(2) No proceedings under section 64 shall be commenced <sup>Time for commencement of action</sup> more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission. R.S.O. 1950, c. 351, s. 64 (2); 1952, c. 96, s. 2.

**66.** An information or complaint in respect of any contravention of this Act may be for one or more offences and no <sup>Information may be in respect of one or more offences</sup> information, complaint, summons, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1950, c. 351, s. 65.

## PART XIII

### GENERAL PROVISIONS

**67.** No person or company shall carry on business as a <sup>Stock exchanges</sup> stock exchange without the consent in writing of the Commission. R.S.O. 1950, c. 351, s. 66.

**68.** Every stock exchange in Ontario shall keep a record <sup>Record</sup> showing the time at which each transaction on such exchange took place and shall supply to any customer of any member of such exchange, upon production of a written confirmation of any transaction with such member, particulars of the time

at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. R.S.O. 1950, c. 351, s. 67.

Liability of  
directors,  
promoters,  
etc., for  
untrue  
statements in  
prospectus

**69.**—(1) Where a prospectus has been accepted for filing by the Commission under this Act, every purchaser of the securities to which the prospectus relates shall be deemed to have relied upon the representations made in the prospectus whether the purchaser has received the prospectus or not and, if any material false statement is contained in the prospectus, every person who is a director of the company issuing the securities at the time of the issue of the prospectus, and every person who, having authorized such naming of him, is named in the prospectus as a director of the company or as having agreed to become a director of the company either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, is liable to pay compensation to all persons who have purchased the securities for any loss or damage such persons may have sustained, unless it is proved,

- (a) that having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that the prospectus was issued without his authority or consent; or
- (b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or
- (c) that after the issue of the prospectus and before a sale of the securities, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of such withdrawal and of the reason therefor; or
- (d) that with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable grounds to believe and did up to the time of the sale of the securities, believe that the statement was true; or
- (e) that with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy or extract from the report or valuation, but the director, person named as director, promoter, or person who author-

ized the issue of the prospectus, is liable to pay compensation as aforesaid, if it is proved that he had no reasonable grounds to believe that the person making the statement, report or valuation was competent to make it; or

- (f) that with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document.

(2) In this section, "prospectus" includes every statement and report and summary of report required to be filed with the prospectus under this Act. R.S.O. 1950, c. 351, s. 68. Interpretation

**70.** Except with the consent of the Attorney General, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted, No action, etc., against persons administering Act

- (a) against any person whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them or under an order of the Attorney General made under this Act; or

- (b) against any exchange auditor, district association auditor, or association auditor employed under the provisions of clause b of section 33 in respect of the performance of his duties as such. R.S.O. 1950, c. 351, s. 69.

**71.** No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company in respect of any act or omission of the last-mentioned person or company done or omitted in compliance or intended compliance with, No proceedings against persons in respect of anything done or omitted in compliance with this Act, etc.

- (a) any requirement, order or direction under this Act of,
- (i) the Commission or any member thereof,
  - (ii) the registrar,
  - (iii) any person appointed by order of the Attorney General,

- (iv) the Attorney General,
  - (v) any representative of the Attorney General, the Commission, registrar or of any person appointed by the Attorney General; or
- (b) this Act and the regulations. R.S.O. 1950, c. 351, s. 70.

## Regulations

**72.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing requirements respecting applicants for registration;
- (b) prescribing the classes of negotiable securities that may be accepted as collateral security for a bond;
- (c) regulating the listing and trading of securities and records relating thereto;
- (d) governing the furnishing of information by any person or company registered under this Act to the public in connection with securities or trades therein;
- (e) governing the keeping of accounts and records and the preparation and filing of financial statements of the affairs of security issuers;
- (f) designating any person or company or any class of persons or companies which shall not be required to obtain registration as investment counsel or securities adviser;
- (g) prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
- (h) prescribing the form, contents and other particulars relating to statements, agreements and other information required to be filed, furnished or delivered under this Act and the regulations;
- (i) prescribing the practice and procedure upon investigations under sections 21 and 23;
- (j) prescribing the forms for use under this Act and the regulations;
- (k) prescribing trades or securities, in addition to the trades and securities mentioned in section 19, in respect of which registration shall not be required;

- (l) prescribing trades or securities mentioned in section 19 in respect of which there shall cease to be exemption from registration;
- (m) prescribing trades or securities, in addition to the trades and securities mentioned in section 41, in respect of which sections 38, 39 and 40 shall not apply;
- (n) prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 351, s. 71; 1953, c. 97, s. 9.

**73.** A statement as to,

Certificate  
as evidence

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Commission; or
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commission or a member thereof or by the registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1950, c. 351, s. 72.

**74.—(1)** Where a magistrate or justice of another province issues a warrant for the arrest of any person on a charge of contravening any provision of this Act or any similar statute of that province, any magistrate or justice of Ontario within whose jurisdiction that person is or is suspected to be may upon satisfactory proof of the handwriting of the magistrate or justice who issues the warrant make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the magistrate or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to re-arrest such person anywhere in Ontario.

Execution  
of warrant  
issued in  
another  
province

Prisoner  
in transit

(2) Any constable of Ontario or of any other province of Canada who is passing through Ontario having in his custody a person arrested in another province under a warrant endorsed in pursuance of subsection 1 is entitled to hold, take and re-arrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1950, c. 351, s. 73.

Expenses  
R.S.O. 1960,  
c. 27

**75.** Section 12 of *The Audit Act* applies *mutatis mutandis* as if the provisions thereof, except the references to the Deputy Attorney General, were enacted in and formed part of this Act. R.S.O. 1950, c. 351, s. 74.

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## CHAPTER 364

**The Security Transfer Tax Act****1.** In this Act,Interpre-  
tation

- (a) "regulations" means the regulations made under this Act;
- (b) "security" includes,
  - (i) any share of capital stock or debenture stock and any bond or debenture issued by any association, company, corporation or government,
  - (ii) any participating interest in the operations or profits of any association, company or corporation represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, syndicate units and fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities, and
  - (iii) guaranteed trust certificates and investment receipts;
- (c) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 352, s. 1.

**2.** There shall be imposed, levied, collected and paid to <sup>Tax</sup> Her Majesty for the uses of Ontario, a tax <sub>imposed</sub>

- (a) upon every change of ownership consequent upon the sale, transfer or assignment of a security made or carried into effect in Ontario;
- (b) upon every order given to any person, firm or corporation in Ontario for the sale, transfer or assignment of a security when such order is to be executed outside of Ontario;
- (c) upon every transfer or delivery of a security exchanged for another security in Ontario, provided that this clause does not apply where a company through a reorganization of its capital structure calls in or redeems part or all of its issued securities and

replaces them by other securities issued by such company to the same security holders;

- (d) upon every delivery in Ontario of a security held in Ontario for the account of a non-resident of Canada consequent upon the sale, transfer or assignment executed within or without Ontario by or for such non-resident; and
- (e) upon every payment made in Ontario, consequent upon the sale, transfer or assignment of a security that has been executed outside Ontario,

provided that only one of the clauses contained in this section applies to the same transaction. R.S.O. 1950, c. 352, s. 2; 1952, c. 97, s. 1.

Interpre-  
tation

**3.**—(1) In this section, “share” and “share of stock” include a share of any participating interest in the operations or profits of any association, company or corporation and to a guaranteed trust certificate and an investment receipt.

Amount of  
tax

(2) The tax imposed by section 2 is as follows:

- (a) 3 cents for every \$100 or fraction thereof, of the par value of a bond, debenture or debenture stock;
- (b) for every share sold, transferred or assigned at a price or valuation of,
  - (i) over \$150 per share, 4 cents per share, plus one-tenth of 1 per cent of the price or value of such share in excess of \$150,
  - (ii) over \$75 per share, but not more than \$150 per share, 4 cents per share,
  - (iii) over \$50 per share, but not more than \$75 per share, 3 cents per share,
  - (iv) over \$25 per share, but not more than \$50 per share, 2 cents per share,
  - (v) over \$5 per share, but not more than \$25 per share, 1 cent per share,
  - (vi) \$1 per share, but not more than \$5 per share, one-quarter of 1 cent per share, and
  - (vii) less than \$1 per share, one-tenth of 1 per cent of the price or value; and
- (c) 3 cents for every \$100 or fraction thereof of the price or value of each syndicate unit, mineral deed, oil royalty, guaranteed trust certificate or investment receipt.



(3) Except as hereinafter provided, if a change of ownership otherwise than by sale at the current market price is effected, of any share of stock, such change of ownership is subject to the tax imposed by this Act, computed on the basis of the current market price of such share of stock. Determination of value

(4) In any case where a current market price has not been established by recent sales, or where it is difficult to ascertain the value of the shares of stock, the Treasurer may fix a price which shall be the price on which the tax shall be paid. Idem  
R.S.O. 1950, c. 352, s. 3.

4. The tax imposed by this Act is payable in security transfer tax stamps or cash by the vendor, transferor, assignor or, in the case of transfers and deliveries referred to in clauses *c* and *d* of section 2, by the person, company, corporation, bank or trust company making delivery. R.S.O. 1950, c. 352, s. 4. Manner of payment

5.—(1) The following transactions are not subject to the tax imposed by this Act: Transactions exempt

- (a) the sale, transfer or assignment of any bond, debenture or share of a debenture stock issued by or guaranteed as to principal and interest by Canada or any province of Canada or any municipality or school board in Ontario;
- (b) the allotment by any association, company or corporation of its shares in order to effect an issue thereof, and the first issue of a bond, debenture, share of debenture stock or of any participating interest in the operations or profits of any association, company or corporation, represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities;
- (c) the first issue of a guaranteed trust certificate or investment receipt; and
- (d) the transfer or assignment of a security made by a borrower *bona fide* as collateral security for an advance or loan and the retransfer or reassignment of such security to the borrower, provided that upon the property in the security passing to the lender as a result of the failure of the borrower to satisfy such advance or loan a change of ownership shall be deemed to have occurred and is subject to the tax

imposed by this Act. R.S.O. 1950, c. 352, s. 5 (1); 1954, c. 88, s. 1; 1955, c. 77, s. 1.

Underwriting  
of bond,  
etc., to be  
deemed  
first issue

(2) For the purposes of this section the underwriting of a bond, debenture or debenture stock, or the first transaction whereby ownership or control is established, shall be deemed to be a first issue thereof. R.S.O. 1950, c. 352, s. 5 (2).

Books and  
records

**6.**—(1) Every person liable under this Act or the regulations to collect and pay the tax imposed by this Act shall keep such books and records at his place of business in Ontario as the Treasurer may require, and such books and records shall be open at all reasonable times to the inspection of the officers of the Treasury Department or such other persons as may be authorized by the Treasurer to inspect them.

Failure to  
keep books

(2) If any person liable to maintain books and records for the purposes of this Act has, in the opinion of the Treasurer, failed to maintain adequate books and records, the Treasurer may assess the tax payable by such person and the tax so assessed shall be deemed to be due and payable forthwith.

Preventing  
inspections

(3) Any person who in any way prevents or attempts to prevent any such officer or other person from having access to or inspecting any such books and records, and any person who being liable to keep such books and records refuses to produce them for inspection as required by subsection 1, is guilty of an offence and on summary conviction is liable to a fine of not less than \$500 and not more than \$5,000 and any fine so recovered is payable to the Treasurer. R.S.O. 1950, c. 352, s. 6.

Transaction  
by Ontario  
broker

R.S.O. 1960,  
c. 363

**7.** Every transfer, sale or assignment, ordered, made or carried into effect through a person engaged in the business of a broker within the meaning of *The Securities Act* in Ontario either for himself or on behalf of another person, shall be deemed to be ordered, made or carried into effect in Ontario unless the Treasurer certifies that the contrary has been established to his satisfaction. R.S.O. 1950, c. 352, s. 7.

Collection  
of tax

**8.**—(1) Every stock broker, bond dealer, bank, trust company, person, company or corporation selling, transferring or assigning a security or taking or making delivery of a security on behalf of any person, shall collect from such person, the tax imposed by this Act and remit the amount thereof if paid in money, to the Treasurer in accordance with the regulations, and for such purpose the stock broker, bond dealer, bank, trust company, person, company or corporation is the agent of the Treasurer.

(2) Every stock broker, bond dealer, bank, trust company, person, company or corporation that fails to comply with the provisions of subsection 1 is liable, in addition to the payment of the tax collected or to be collected, to a penalty of \$500. R.S.O. 1950, c. 352, s. 8. Penalty for failure to collect tax

9.—(1) Every company or corporation, including every extra-provincial company or corporation that has a branch or an agency, or an office of any kind in Ontario, shall on or before the last day of the month ending six months following the close of its fiscal year make an annual return to the Treasurer showing every sale, transfer or assignment of any registered security issued by such company or corporation made or carried into effect in Ontario, together with the amount of tax collected under this Act. Annual return

(2) The return shall be verified by a certificate certifying that the statements in the return are in agreement with the books and records of the company or corporation, and the certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the company or corporation, and in the case of an extra-provincial company, by the manager or chief agent of the company in Ontario, or by such other person or persons connected with the company as the Treasurer may require. Verification of return

(3) In the case of a company or corporation, the shares, bonds, or debenture stock of which are sold and transferred upon an incorporated stock exchange, the Treasurer may accept a return from such exchange showing the total amount of such sales, transfers or assignments and the total amount of the tax collected under this Act. Record of stock exchange

(4) In the case of a company or corporation that has duly appointed a trust company as transfer agent for its shares, bonds or debenture stock, the Treasurer may accept, in lieu of the annual return of such company, a statement from the transfer agent to the effect that the tax on all transfers made during the preceding year has been accounted for in accordance with this Act and the regulations. Records of transfer agent

(5) If a company or corporation makes default in complying with the provisions of this section, the company or corporation is liable to a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the company or corporation who wilfully authorizes or permits such default is liable to a like penalty. R.S.O. 1950, c. 352, s. 9. Penalty

10. Any company or corporation entering or permitting the entry in any book or register under its control of any sale, transfer, or assignment of any security issued by it, unless the Penalty for permitting entry in register

tax has been paid when such entry is made, is liable to a penalty of not less than an amount equal to the amount of the tax due and a further amount of not less than \$20 and not more than \$50. R.S.O. 1950, c. 352, s. 10.

Obtaining  
of informa-  
tion

**11.** For the purpose of obtaining any information that he may deem necessary for the purposes of this Act, the Treasurer may,

- (a) demand from any company or corporation or any officer or employee thereof, or any other person, such information as may be indicated in a letter delivered or sent by prepaid post to such company, corporation, officer, employee or other person and every such company, corporation, officer, employee or other person shall furnish to the Treasurer all such information that he has in his possession or under his control, in writing, within one month of the delivery or sending of such letter; or
- (b) appoint any officer of the Treasury Department to make such inquiry as may be necessary to obtain such information and for the purposes of such inquiry such officer has all the power and authority that may be conferred upon a commissioner under *The Public Inquiries Act*,

R.S.O. 1960,  
c. 323

provided that any act done or proceeding taken under either of the clauses of this section does not preclude the Treasurer from proceeding under the other clause. R.S.O. 1950, c. 352, s. 11.

Liability  
for tax

**12.** Notwithstanding any prior assessment or if no assessment has been made the person liable thereto shall continue to be liable for any tax imposed by this Act, or by *The Corporations Tax Act*, being chapter 29 of the Revised Statutes of Ontario, 1937, upon a change of ownership of a share, bond or other security, and to be assessed therefor and the Treasurer may at any time assess, re-assess or make additional assessments upon any person for tax and penalties. R.S.O. 1950, c. 352, s. 12.

Demand  
for payment

**13.** Where the Treasurer finds any tax to be owing by any person he may send a demand for the payment of such tax to such person by prepaid post and such person shall pay the amount of the tax to the Treasurer within thirty days of the sending of such demand and in default of payment of such amount, a penalty of 5 per cent of the amount of tax payable shall be added thereto and thereafter a further penalty of 1 per cent per month shall be added for each additional month

or portion thereof during which the tax and penalty remain unpaid. R.S.O. 1950, c. 352, s. 13.

**14.** When it is shown to the satisfaction of the Treasurer that any change of ownership consequent upon the sale, transfer or assignment of a security, or upon any other transaction mentioned in section 2, is subject to a tax outside of Ontario and is subject to a similar tax under the laws of Ontario, he may make an allowance from the tax payable in Ontario in respect of the tax so paid. R.S.O. 1950, c. 352, s. 14. Tax payable  
outside  
Ontario

**15.** Every person who makes any return or furnishes any information to the Treasurer under this Act containing any false statement is liable to a penalty of not more than \$10,000. R.S.O. 1950, c. 352, s. 15. Penalty for  
false state-  
ment

**16.** Any person who, being thereto liable, neglects or refuses to pay the tax imposed by this Act, or who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is liable for every such contravention to a penalty of not less than an amount equal to the amount of the tax due and not more than an amount equal to \$500 more than the amount of the tax due; provided that where no tax is due by such person the penalty is not less than \$50 and not more than \$500. R.S.O. 1950, c. 352, s. 16. Penalty for  
contravention

**17.** The tax imposed by this Act and the penalties imposed by sections 8, 9, 10, 13, 15 and 16 may be recovered by an action in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of the Treasurer or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury. R.S.O. 1950, c. 352, s. 17. Recovery of  
tax and  
penalties

**18.** If any doubt or dispute arises as to the liability of a person to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Treasurer may accept such amount as he may deem proper, and if the tax demanded has been paid under protest he may refund it or any part thereof. R.S.O. 1950, c. 352, s. 18. Dispute as  
to liability  
for tax

**19.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) authorizing or requiring the Deputy Treasurer or any other officer of the Treasury Department to exercise any power or perform any duty conferred or imposed upon the Treasurer by this Act;
  - (b) determining what constitutes a sale, transfer or assignment within the meaning of this Act;
  - (c) prescribing in any case or class of cases the manner in which and the persons by whom the amount of any tax shall be computed and collected for and on behalf of Her Majesty;
  - (d) providing for the sale of stamps at a discount not exceeding 3 per cent to such persons and for such periods as he deems advisable;
  - (e) providing for the payment of a commission not exceeding 3 per cent to agents of the Treasurer under section 8 who collect the tax in money;
  - (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1950, c. 352, s. 19; 1954, c. 88, s. 2.

Affidavits  
and declara-  
tions

**20.** Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that purpose by the Lieutenant Governor in Council, but any person so specifically authorized shall not charge any fee therefor. R.S.O. 1950, c. 352, s. 20.

Information  
obtained  
under Act

**21.—(1)** No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Offence

**(2)** Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and any fine so recovered is payable to the Treasurer. R.S.O. 1950, c. 352, s. 21.

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## CHAPTER 365

## The Seduction Act

1. The father or, in case of his death, the mother, whether she remains a widow or has married again, of an unmarried female who has been seduced, and for whose seduction the father or mother could maintain an action if the unmarried female was at the time dwelling under his or her protection, may maintain an action for the seduction, notwithstanding that the unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1950, c. 353, s. 1.

When action maintainable by father or mother

2. Upon the trial of an action for seduction brought by the father or mother it is not necessary to prove any act of service performed by the person seduced, but it shall in all cases be presumed, and no evidence shall be received to the contrary; but if the father or mother of the person seduced had, before the seduction, abandoned her and refused to provide for and retain her as an inmate of his or her home, then any other person who might at common law have maintained an action for the seduction may maintain the action. R.S.O. 1950, c. 353, s. 2.

Proof of service dispensed with

3. Any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled at common law to maintain an action for the seduction of an unmarried female, may still maintain the action if the father or mother is not resident in Ontario at the time of the birth of the child that is born in consequence of the seduction or, being resident therein, does not bring an action for the seduction within six months from the birth of the child. R.S.O. 1950, c. 353, s. 3.

Where father or mother not resident in Ontario

4. If the father and mother of an unmarried female who has been seduced are both dead and the unmarried female is under the age of twenty-one years, any person, who at the time of the birth of the child that is born in consequence of the seduction was the legal guardian of, or stood *in loco parentis* to, the unmarried female, may maintain an action for the seduction notwithstanding that the unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1950, c. 353, s. 4.

Who may maintain action in case of infant orphan





## CHAPTER 366

## The Seed Grain Subsidy Act

**1.**—(1) Subject to this Act, the council of any municipality may pass by-laws to guarantee payment by farmers resident within the municipality of debts contracted by such farmers in the purchase of seed grain. Guarantee of payments for seed grain

(2) Every guarantee shall be made and given by the municipality in the form and manner set forth in the by-law, but no guarantee shall be made or given unless it is first approved and signed by the reeve and treasurer of the municipality. Form of guarantee

(3) All seed grain purchased by a farmer under guarantee given under this Act shall be used only for seeding purposes upon the farm owned or occupied by such farmer within the municipality in which he resides. Seed grain, restrictions as to use R.S.O. 1950, c. 354, s. 1.

**2.** The Lieutenant Governor in Council may authorize the Treasurer of Ontario to pay out of the Consolidated Revenue Fund all such moneys as may be required to repay to any municipality two-thirds of all sums expended by such municipality under or by virtue of any guarantees entered into by it under the authority of this Act. Repayment to municipality R.S.O. 1950, c. 354, s. 2.

**3.** The Lieutenant Governor in Council may make regulations respecting, Regulations

- (a) the guarantees to be given by municipalities under this Act and the form and manner of execution thereof;
- (b) the aggregate amount that may be guaranteed by any municipality and the maximum amount for which any specific guarantee may be given;
- (c) the proofs to be required by farmers before any guarantee is given;
- (d) the statements and returns to be made by municipalities to the Department of Agriculture;
- (e) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 354, s. 3.

**4.** Any expenditures made or estimated to be made by a municipality under this Act shall for the purposes of *The Municipal Act* and *The Assessment Act* form part of the current expenditure of such corporation in the year in which they are made. Payments for seed grain to be deemed part of current expenditure R.S.O. 1960, cc. 249, 23 R.S.O. 1950, c. 354, s. 4.



## CHAPTER 367

## The Seed Potatoes Act

## 1. In this Act,

Interpre-  
tation

- (a) "container" means any bag, sack, crate, barrel or other receptacle in which potatoes may be placed, stored, shipped, offered for sale or sold;
- (b) "Director" means the Director of the Field Crops Branch of the Department of Agriculture;
- (c) "grower" means any person who grows potatoes;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "Minister" means the Minister of Agriculture;
- (f) "regulations" means the regulations made under this Act;
- (g) "restricted area" means a seed potato restricted area constituted under the authority of this Act. R.S.O. 1950, c. 355, s. 1; 1956, c. 82, s. 1.

2.—(1) Upon the receipt of a petition that, in the opinion of the clerk of the township, bears the signatures of more than 80 per cent of all growers in the area defined in the petition, the council shall pass a by-law constituting the whole or the part of the township described in the petition as a seed potato restricted area.

Petition  
and by-law

## (2) The petition shall contain,

Petition,  
contents

- (a) a detailed description of the boundaries of the proposed restricted area;
- (b) the approximate acreage of potatoes grown in the preceding year in the proposed restricted area;
- (c) a list of the names and addresses of all growers in the proposed restricted area. R.S.O. 1950, c. 355, s. 2.

3. The clerk shall send a certified copy of the by-law to the Director within seven days after it is passed. R.S.O. 1950, c. 355, s. 3.

Copy of  
by-law to be  
sent to  
Director

Inspectors

**4.** Where a by-law under this Act is passed, the council shall appoint one or more inspectors for the restricted area to enforce the provisions of this Act and the regulations. R.S.O. 1950, c. 355, s. 4.

Restricted area in territory without municipal organization

**5.—(1)** Upon receipt of a petition containing the information required by subsection 2 of section 2 that, in the opinion of the Minister, bears the signatures of more than 80 per cent of all growers in the area defined in the petition where such area is situated in territory without municipal organization, the Lieutenant Governor in Council may constitute the area described in the petition as a seed potato restricted area.

Inspectors in territory without municipal organization

**(2)** The Minister shall appoint one or more inspectors for the restricted area to enforce the provisions of this Act and the regulations and shall fix the remuneration to be paid to any such inspector. R.S.O. 1950, c. 355, s. 5.

Power to enter premises

**6.** In the performance of his duties under this Act and the regulations any inspector may at any time between sunrise and sunset enter any land, building or part of a dwelling house used for storing potatoes in the restricted area. R.S.O. 1950, c. 355, s. 6.

Seed to be planted

**7.** No grower shall plant within a restricted area any seed potatoes other than those prescribed by the regulations. R.S.O. 1950, c. 355, s. 7.

Moving into area

**8.** No person shall move or cause to be moved into a restricted area,

potatoes

**(a)** any kind or grade of potatoes without a permit from an inspector; or

containers

**(b)** any container that has been used as a container for potatoes or is infected with any potato disease. R.S.O. 1950, c. 355, s. 8.

New containers to be used

**9.** All potatoes moved out of a restricted area shall be in new containers. R.S.O. 1950, c. 355, s. 9.

Potatoes for industrial processing, etc.

**10.** Potatoes moved into a restricted area for industrial processing or for re-shipment shall be stored in warehouses or other places of storage approved by an inspector as not being a possible source or means of spreading any potato disease. R.S.O. 1950, c. 355, s. 10.

Disinfecting containers, etc.

**11.** All places of storage, containers, and machinery used for potatoes in a restricted area shall be disinfected at least once each year, and any planting, harvesting or grading equip-

ment used for potatoes shall be disinfected before such equipment is moved from one farm to another within a restricted area. R.S.O. 1950, c. 355, s. 11.

**12.** Every inspector shall once each year during the growing season and may at any time inspect the potato fields in his jurisdiction. R.S.O. 1950, c. 355, s. 12. Inspection of fields

**13.** No person shall move or cause to be moved, from one farm to another within a restricted area, any potatoes infected with bacterial ring rot. R.S.O. 1950, c. 355, s. 13. Moving infected potatoes in area

**14.** Every person who contravenes any of the provisions of this Act or the regulations, or hinders or obstructs an inspector in the performance of his duties, is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$200. R.S.O. 1950, c. 355, s. 14. Offence

**15.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the kinds and grades of potatoes that may be planted in a restricted area;
  - (b) defining classes of persons and exempting such classes from the Act and the regulations;
  - (c) prescribing the duties of inspectors;
  - (d) providing for the making of grants by the Minister out of such moneys as may be appropriated by the Legislature for the purpose of reimbursing any township for any expense it has incurred under this Act;
  - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 355, s. 15; 1956, c. 82, s. 2.
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## CHAPTER 368

## The Separate Schools Act

## PART I

## PROTESTANT AND COLOURED SEPARATE SCHOOLS

**1.** Upon the application in writing of five or more heads of families resident in a township, city, town or village, being Protestants, the council of the township or the board of public school trustees of the city, town or village shall authorize the establishment therein of one or more separate schools for Protestants. R.S.O. 1950, c. 356, s. 1.

Conditions  
on which  
separate  
schools  
may be  
established

**2.** Upon the application in writing of five or more heads of families resident in a township, city, town or village, being coloured people, the council of the township or the board of public school trustees of the city, town or village shall authorize the establishment therein of one or more separate schools for coloured people. R.S.O. 1950, c. 356, s. 2.

Coloured  
people

**3.** In a township the council shall prescribe the location of the school or schools authorized to be established under sections 1 and 2. R.S.O. 1950, c. 356, s. 3.

Location

**4.** No person shall be a supporter of any separate school for coloured people unless he resides within three miles in a direct line of the site of the schoolhouse. R.S.O. 1950, c. 356, s. 4.

Who may be  
supporter of  
school for  
coloured  
people

**5.** There shall be three trustees for each separate school and the first meeting for their election shall be held and conducted in the manner provided by section 27. R.S.O. 1950, c. 356, s. 5.

Election of  
trustees

**6.** On the 25th day of December next following the date of the application mentioned in sections 1 and 2, the separate school shall go into operation, and shall, with respect to the persons for whom it is established, be under the same regulations as the public schools. R.S.O. 1950, c. 356, s. 6.

Commence-  
ment and  
regulations

**7.** None but coloured people shall vote at the election of trustees of a separate school established for coloured people, and none but the persons petitioning for the establishment of or sending children to a Protestant separate school shall vote at the election of trustees of such school. R.S.O. 1950, c. 356, s. 7.

Voters  
defined

Union of  
wards in  
cities and  
towns

**8.** In a city or town the persons who make the application may have a separate school in each ward, or in two or more wards united as they may judge expedient. R.S.O. 1950, c. 356, s. 8.

Restriction  
upon estab-  
lishment of  
Protestant  
school

**9.** No Protestant separate school shall be established in any school section except when the teacher of the public school in the section is a Roman Catholic. R.S.O. 1950, c. 356, s. 9.

Exemption  
from public  
school rates

**10.—(1)** In a city, town, village or township public school section in which a separate school exists, every Protestant or coloured person, as the case may be, paying rates, whether as owner or tenant, and being a supporter of the school, is exempt from the payment of all rates imposed for the support of public schools and public school libraries, or for the purchase of land or the erection of buildings for public school purposes, within the city, town, village or section in which he resides, for the then current year, and every subsequent year thereafter while he continues a supporter of the school.

Exemption  
conditional

(2) Such exemption does not extend beyond the period during which such person is a supporter of the school, or to school rates or taxes imposed or to be imposed to pay for school-houses the erection of which was undertaken or entered into before the establishment of the separate school. R.S.O. 1950, c. 356, s. 10.

Not to  
share

**11.** Separate schools shall not share in money raised by local municipal assessment for public school purposes. R.S.O. 1950, c. 356, s. 11.

Share of  
legislative  
grant

**12.** Every separate school shall share in the legislative public school grants in like manner as a public school. R.S.O. 1950, c. 356, s. 12.

Half-yearly  
return to  
inspector

**13.—(1)** The trustees of every separate school shall, on or before the 30th day of June and the 31st day of December of each year, transmit to the public school inspector a correct return of the names of all Protestant or coloured persons, as the case may be, who have sent children to or who have subscribed for the support of the separate school during the last preceding six months, the names of the children sent and the amounts subscribed, together with a statement of the average attendance of pupils in the separate schools during such period.

Inspector  
to report  
to clerk

(2) The inspector shall, upon the receipt of the return, forthwith make a return to the clerk of the municipality in which the separate school is established stating the names of all the persons who being Protestant or coloured persons, as the case may be, contribute, or send children to the separate school.



(3) Except for a rate for building schoolhouses undertaken before the establishment of the separate school the clerk shall not include in the collector's roll for the general or other school rate and the board of trustees shall not include in their school rolls any person whose name appears upon the last-mentioned return.

Exemption  
of sup-  
porters of  
separate  
schools  
from rates

(4) The clerk or other officer of the municipality within which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall allow any trustee or the authorized collector of the board to make a copy of the roll so far as it relates to their school section. R.S.O. 1950, c. 356, s. 13.

Use of  
assessor's  
roll by  
board

**14.** Sections 28 to 46 apply to the trustees and teachers of the separate schools. R.S.O. 1950, c. 356, s. 14.

Application  
of ss. 28 to 46

**15.** The trustees of a separate school are a body corporate under the name of "The Trustees of the Protestant (or Coloured) Separate School of.....in the Township (City, Town or Village, *as the case may be*) of .....", and have such powers as to imposing, levying and collecting school rates or subscriptions upon and from persons sending children to or subscribing towards the support of the separate school as are provided by section 59. R.S.O. 1950, c. 356, s. 15.

Corporate  
name and  
powers

## PART II

### ROMAN CATHOLIC SEPARATE SCHOOLS

#### ESTABLISHMENT

**16.** This Part applies to separate schools for Roman Catholics now or hereafter established. R.S.O. 1950, c. 356, s. 16.

Application  
of Part

**17.** In this Part,

Interpre-  
tation

- (a) "Department" means the Department of Education;
- (b) "Minister" means the Minister of Education;
- (c) "regulations" means the regulations made under *The Department of Education Act*; R.S.O. 1960, c. 94
- (d) "rural school" means a separate school for Roman Catholics in a township or in territory without municipal organization;
- (e) "secretary" or "treasurer" includes a secretary-treasurer;

- (f) "separate school" means a separate school for Roman Catholics;
- (g) "urban school" means a separate school for Roman Catholics in a city, town or village. R.S.O. 1950, c. 356, s. 17.

Meeting to  
establish a  
separate  
school

**18.** Not less than five heads of families, being householders or freeholders resident within any public school section of a township, or within a city, town or village, and being Roman Catholics, may convene a public meeting of persons desiring to establish a separate school therein for the election of trustees. R.S.O. 1950, c. 356, s. 18.

Election of  
trustees

**19.** A majority of the persons present, being householders or freeholders, and Roman Catholics, may at the meeting elect from the duly qualified persons the requisite number of trustees. R.S.O. 1950, c. 356, s. 19.

Notice of  
meeting;  
and to  
whom given

**20.**—(1) Notice in writing that the meeting has been held, and of the election, shall be delivered by one of the trustees so elected to the head of the municipality or to the chairman of the board of public school trustees in the township, village, town or city in which the school is about to be established, designating by their names, occupations and residences the persons elected as trustees.

Notification  
or result to  
Department

(2) The officer receiving the notice shall endorse thereon the date of its receipt, and shall deliver a copy of the notice so endorsed and duly certified by him to the trustee, who shall forthwith transmit the copy and a copy of the minutes of the meeting and of the notice calling it to the Department.

Corporate  
name of  
trustees

(3) From and after the delivery of the notice to such officer the trustees therein named are a body corporate under the name, in the case of a city, town or village, of "The Board of Trustees of the Roman Catholic Separate Schools for the City (Town or Village, as the case may be) of....." and in the case of rural boards of "The Board of Trustees of the Roman Catholic Separate School for School Section Number ....., in the Township of.....". R.S.O. 1950, c. 356, s. 20.

Name of  
board in  
a township  
school area

(4) Where a separate school is established in a township school area or in a consolidated school section, the name of the board of the separate school shall include the number of the former school section in which the school is situated. 1960, c. 109, s. 1.

Meeting for  
purpose of  
electing  
trustees

**21.**—(1) In unorganized townships and in any part of Ontario not surveyed into townships any number of heads of families, not less than ten, who are Roman Catholics, may, at

a public meeting called for that purpose, elect three of their number as school trustees, and the trustees so elected have all the powers of public school boards in unorganized townships, and are in all other respects subject to the provisions of this Act. R.S.O. 1950, c. 356, s. 21 (1).

(2) The trustees are a body corporate under the name of, <sup>Corporate name of board</sup>

(a) where they have jurisdiction in only one unorganized township, "The Board of Trustees of the Roman Catholic Separate School of the Township of .....in the territorial district of .....(*inserting the name of the township, the number of the separate school and the district*)";

(b) where they have jurisdiction in more than one unorganized township, "The Board of Trustees of the Roman Catholic Separate School of the Townships of .....in the territorial district of .....(*inserting the names of the townships, the number of the separate school and the name of the district*)"; and

(c) where they have jurisdiction in unsurveyed territory, "The Board of Trustees of the Roman Catholic Separate School of .....(*inserting a name selected by the inspector*)". 1955, c. 78, s. 1.

(3) On receipt of notice by the Department signed by the <sup>Legislative grants</sup> trustees so elected that a school has been established and suitable accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sum for the maintenance of the school as may be approved by the Lieutenant Governor in Council.

(4) The board may appoint a fit and proper person, who <sup>Appointment of collector</sup> may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums that the inhabitants or others have subscribed or a rate-bill imposed upon any person, and may pay to the collector at the rate of not less than 5 and not more than 10 per cent on the money collected by him, and every collector shall give such security as may be required by the board.

(5) Every collector has the same powers in collecting the <sup>Powers and duties of collectors</sup> school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township. R.S.O. 1950, c. 356, s. 21 (2-4).

Determina-  
tion of  
gross and  
net cost

**22.—(1)** In this section,

- (a) "gross cost per pupil per day" shall be determined by dividing the cost of operation of day schools of the board for the preceding year by the actual aggregate attendance for that year;
- (b) "net cost per pupil per day" shall be determined by subtracting the legislative grant received by the board, except the grant on fees paid to another board and on the cost of night school, from the cost of operation of day schools of the board for the preceding year and dividing the remainder by the actual aggregate attendance for that year. 1960, c. 109, s. 2, *part.*

Right of  
person to  
attend  
separate  
school

(2) Every person who has attained the age of five years on or before the 31st day of December in any year and whose parent or guardian is a supporter of a separate school has the right to attend, after the 1st day of September in the following year, the separate school of which his parent or guardian is a supporter at the expense of the separate school board except a person who, by reason of mental or physical defect, is unable to profit by instruction in the separate school or a person who has attained the age of twenty-one years. 1957, c. 112, s. 1.

Determina-  
tion as to  
whether or  
not person  
can profit by  
instruction

(3) Where a question arises as to whether or not a person can profit by instruction in a separate school, the matter shall be referred to a committee appointed by the Minister for that purpose, and the decision of the committee is final.

Evidence  
as to right  
to attend

(4) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend the separate school, including proof of age.

Kinder-  
garten

(5) Where a board operates a kindergarten in a separate school, the age at which the child has the right to attend kindergarten in that school is lower by one year than that stated in subsection 2.

Junior  
kinder-  
garten

(6) Where the board operates a junior kindergarten in a separate school, the age at which the child has the right to attend junior kindergarten in that school is lower by two years than that stated in subsection 2.

Kinder-  
garten  
fees

(7) The board may charge a fee, not in excess of the net cost per pupil per day in the preceding year, to be prepaid monthly by the parent or guardian for attendance in kindergarten or junior kindergarten of pupils who have not attained the age stated in subsection 2.

(8) A child who is a ward of a children's aid society shall be admitted to a separate school by the separate school board that was supported by his parent or guardian with whom he resided in the year in which he became a ward and no fee shall be charged by the board.

Admission  
of ward of  
children's  
aid society

(9) Where a child who is a Roman Catholic and who is in the custody of a corporation, society or person and who is not qualified for admission under the other provisions of this section resides with a supporter of a separate school and the separate school inspector certifies that there is sufficient accommodation in the separate school for the current school year, the separate school board shall admit the child to a separate school upon the prepayment monthly by the corporation, society or person of a fee not in excess of the net cost per pupil per day in the preceding year.

Idem

(10) Subject to subsection 2, a child whose mother,

Admission  
of child  
whose  
mother  
is sole  
supporter,  
etc.

(a) resides in Ontario;

(b) is the sole support of the child;

(c) is not assessed as a supporter of a public or separate school in any school section; and

(d) boards her child, who is a Roman Catholic, with a supporter of a separate school in a residence other than a children's boarding home as defined in *The Children's Boarding Homes Act*,

R.S.O. 1960,  
c. 54

shall be admitted to the separate school without the payment of a fee.

(11) Subject to subsection 2, where a child whose parent or guardian is a separate school supporter moves with his parent or guardian into a residence that is assessed for public school purposes, and the date upon which the assessment for the current year may be changed to the support of separate schools has passed, upon the filing of a notice of change for the following year with the clerk of the municipality, the child shall be admitted to a separate school by the board of the separate school that is closest to and within three miles of the residence without the payment of a fee.

Admission  
where  
separate  
school  
supporter  
moves into  
residence  
assessed  
to public  
school  
support

(12) A separate school board may by agreement with another separate school board furnish education for the pupils of the other board and for that purpose may charge a fee not in excess of the gross cost per pupil per day for the preceding year. 1960, c. 109, s. 2, *part*.

Agreement  
between  
boards

#### RURAL SEPARATE SCHOOLS

**23.** For every rural school there shall be three trustees, each of whom, after the first election, shall hold office for three years and until his successor has been elected. R.S.O. 1950, c. 356, s. 22.

Trustees'  
term of  
office

Retirement  
by rotation

**24.**—(1) The trustees elected at the first meeting shall hold office,

- (a) the person first elected, for two years from the annual school meeting next after his election and until his successor has been elected;
- (b) the person secondly elected, for one year from such annual school meeting and until his successor has been elected;
- (c) the person last elected, until the next ensuing annual school meeting and until his successor has been elected.

Vacancies

(2) A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected.

Resigna-  
tion

(3) A trustee may resign with the consent in writing of the other trustees.

Re-elec-  
tion

(4) A retiring trustee may be re-elected with his own consent, otherwise he is exempt from serving for four years next after leaving office. R.S.O. 1950, c. 356, s. 23.

Trustees'  
qualifica-  
tion

**25.** Any person being a British subject not less than twenty-one years of age may be elected as a trustee whether he is or is not a householder or freeholder. R.S.O. 1950, c. 356, s. 24.

Electors,  
qualifica-  
tion

**26.** Every householder or freeholder of the full age of twenty-one years, who is a supporter of a rural separate school, is entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. R.S.O. 1950, c. 356, s. 25.

Annual  
meeting

**27.**—(1) A meeting of the supporters of a rural school for the purpose among other things of electing trustees shall be held annually on the last Wednesday in December or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon or, if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines or, in the absence of such resolution, at the separate school.

Idem

(2) Where the annual meeting of supporters of the school cannot conveniently be held as provided for in subsection 1, the supporters, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting and, upon receiving the Minister's approval, the annual meeting shall be held on

that day in each year thereafter unless with the Minister's approval some other day is similarly named; provided that no subsequent alteration of the day for holding the annual meeting may be made until at least three annual meetings have been held on the day previously named and approved. 1954, c. 89, s. 1.

(3) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this Part. Organization of meeting

(4) The business of the meeting may be conducted in the following order: Order of business

- (a) receiving and dealing with the annual report of the trustees;
- (b) receiving and dealing with the annual report of the auditors;
- (c) electing one or more auditors for the current year;
- (d) electing a trustee or trustees to fill any vacancy or vacancies; and
- (e) miscellaneous business.

(5) The chairman shall preside and shall submit all motions to the meeting in the manner desired by the majority, and the chairman is not entitled to vote except in the case of an equality of votes, when he shall give the casting vote, and he shall decide all questions of order subject to an appeal to the meeting. Chairman, duties

(6) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee the chairman shall forthwith grant the poll. Granting poll and proceedings in case of a poll

(7) Where a poll is granted the secretary shall enter in a poll book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper. Entries in poll book

(8) Ballot papers shall be pieces of plain white paper of uniform size. Form of ballot paper

(9) A voter shall mark his ballot, Marking of ballot paper

- (a) in the election of a trustee, by marking the name of the trustee thereon; and
- (b) on a question, by marking the word "for" or "against" thereon.

Manner of  
voting

(10) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose.

Appoint-  
ment of  
scrutineer

(11) Every candidate may appoint a person to act as his scrutineer during the election. R.S.O. 1950, c. 356, s. 26 (2-10).

When voter  
is objected  
to

(12) Where an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the chairman shall require the person whose right to vote is objected to to make the following declaration whereupon the person making the declaration is entitled to vote:

I, .....declare,

- (a) That I am an assessed householder or freeholder in School Section No. ....;
- (b) That I am of the full age of twenty-one years;
- (c) That I am a supporter of the Roman Catholic Separate School in School Section No. ....;
- (d) That as such supporter I have the right to vote at this meeting.

R.S.O. 1950, c. 356, s. 26 (11); 1956, c. 83, s. 1 (1).

When poll  
shall close

(13) The poll shall not close before noon, but shall close at anytime thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than 4 o'clock in the afternoon. R.S.O. 1950, c. 356, s. 26 (12).

Polling at  
afternoon  
meetings

(14) When the meeting is held at 8 o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at 10 o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded. R.S.O. 1950, c. 356, s. 26 (13); 1956, c. 83, s. 1 (2).

Counting  
votes,  
casting  
vote

(15) When the poll is closed, the chairman and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and if there is a tie the chairman shall give a second or casting vote.

Declaration  
of result

(16) In the case of an election of trustees the chairman shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a



school question he shall declare the same adopted or negatived as the majority of votes is in favour of or against the same.

(17) A statement of the result of the vote shall be certified by the chairman and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate. R.S.O. 1950, c. 356, s. 26 (14-16). Statement of result of poll

(18) A correct copy of the minutes of every meeting, signed by the chairman and secretary of the meeting, shall be transmitted forthwith by the secretary to the inspector of the separate school. 1958, c. 99, s. 1. Secretary to transmit minutes to inspector

(19) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time any two supporters of the school may call a meeting by giving six days notice posted up in at least three of the most public places in the locality in which the school is situate, and the meeting thus called has all the powers and shall perform all the duties of the meeting in the place of which it is called. R.S.O. 1950, c. 356, s. 26 (18). Meetings to be called in default of first or annual meetings

**28.** A majority of the trustees is a quorum, and the board shall be organized by the election of a chairman and of a secretary and a treasurer or of a secretary-treasurer. R.S.O. 1950, c. 356, s. 27. Organization and quorum

**29.** No act or proceeding is valid that is not adopted at a regular or special meeting of the board of which notice has been given as required by this Act and at which at least two trustees are present. R.S.O. 1950, c. 356, s. 28. Regularity

**30.** It is the duty of the secretary, Duties of secretary

- (a) to call, at the request in writing of two trustees, a special meeting of the board; and
- (b) to give notice of all meetings to each of the trustees by notifying him personally or in writing, or by sending a written notice to his residence. R.S.O. 1950, c. 356, s. 29; 1954, c. 89, s. 2.

**31.** Where a board neglects or the ratepayers at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. R.S.O. 1950, c. 356, s. 32. Appointment of auditor by Minister

**32.—(1)** The majority of the supporters of the separate schools under the jurisdiction of each of two or more separate school boards at public meetings duly called by each separate Formation of a union separate school board

school board may form a union separate school of which union the trustees shall give notice within fifteen days to the Minister and where the schools are located in one or more municipalities to the clerk or clerks of the municipality or municipalities and every union separate school thus formed shall be deemed one school for all Roman Catholic separate school purposes, and shall every year thereafter be represented by five trustees to be elected by the supporters of the union separate school as provided by section 27. 1960, c. 109, s. 3 (1).

Corporate  
name

(2) The trustees are a body corporate under the name of "The Board of Trustees of the Roman Catholic Union Separate School for the United Sections numbers ..... in the .....". R.S.O. 1950, c. 356, s. 33 (2).

Term of  
office

(3) Of the five trustees elected at the first election, the three trustees receiving the highest, second highest and third highest number of votes shall hold office for two years and the two remaining trustees shall hold office for one year.

Equality  
of votes  
at first  
election

(4) In case, at the first election of trustees, two or more trustees receive an equal number of votes or all the trustees are declared elected by acclamation, the question as to which trustees shall hold office for two years shall be determined by lot to be cast by the secretary appointed under subsection 3 of section 27 in the presence of a majority of the elected trustees and the result shall be entered in the minutes of the meeting.

Subsequent  
elections

(5) After the first election, an election shall be held in each year to fill the office of any trustee whose term of office expires in that year and the trustee elected shall hold office for two years and until his successor has been elected. 1960, c. 109, s. 3 (2).

Selection  
and change  
of school  
site

**33.**—(1) The board has power to select a site for a new schoolhouse or to agree upon a change of site for an existing schoolhouse, and shall forthwith call a special meeting of the supporters of the school to consider the site selected, and no site shall be adopted or change of school site made except in the manner hereinafter provided without the consent of the majority of such special meeting.

Arbitration  
when  
trustees and  
ratepayers  
differ as to  
site

(2) If a majority of the supporters present at the special meeting differ as to the suitability of the site selected, each party shall then and there appoint an arbitrator, and the inspector of separate schools for the district in which the school is situate, or, in case of his inability to act, a person appointed by him to act on his behalf, shall be the third arbitrator, and the three arbitrators, or a majority of them present at any lawful meeting, have authority to make and publish an award upon the matter submitted to them.

(3) With the consent or at the request of the parties to the reference the arbitrators, or a majority of them, have authority, <sup>Recon-</sup> within one month from the date of their award, to reconsider <sup>sideration</sup> the award and within two months thereafter to make and publish a second award, which award, or the previous one if not reconsidered by the arbitrators, is binding upon all parties concerned for at least five years from the date thereof. R.S.O. 1950, c. 356, s. 34.

**34.**—(1) Where a separate school has been established in <sup>Establish-</sup> a public school section that includes an urban municipality <sup>ment of</sup> or a portion of an urban municipality, and a township or a <sup>separate</sup> portion of a township, and a majority of the ratepayers <sup>school in a</sup> assessed as separate school supporters in the township or <sup>portion of</sup> portion of a township petition the board of the separate school <sup>rural</sup> to notify the inspector of separate schools that the separate <sup>section</sup> school supporters in the township or portion of a township are desirous of establishing a separate school therein, the inspector may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided by this Part.

(2) The inspector and two other persons, one of whom shall <sup>Arbitra-</sup> be chosen by the separate school board of the urban municipi- <sup>tion</sup> tality and the other by the board of the separate school so established in the township or portion of a township, shall constitute a board of arbitrators who, or a majority of whom, shall determine what proportion of the assets and liabilities of the original separate school board shall belong to, be paid to or be borne by the separate school board of the urban municipality and the board of the rural separate school respectively, and shall adjust all matters consequent upon the separation, and the award of the arbitrators is final and binding.

(3) Nothing in this section relieves any property from <sup>Property</sup> liability for rates levied or to be levied for payment of school <sup>liable for</sup> debentures issued prior to the establishment of the township <sup>debentures</sup> separate school. R.S.O. 1950, c. 356, s. 35.

#### URBAN BOARDS

**35.**—(1) For every ward into which a city or town is <sup>Trustees in</sup> divided there shall be two trustees, each of whom, after the <sup>city, etc.,</sup> first election, shall continue in office for two years. <sup>divided into</sup> <sup>wards</sup>

(2) One of the trustees in each ward chosen at the first <sup>Retirement</sup> election, to be determined by lot at the first meeting of the <sup>by rotation</sup> board after their election, which determination shall be entered

upon the minutes, shall retire from office at the time appointed for the next annual school election and the other shall continue in office one year longer.

Number of trustees may be limited to six by resolution

(3) In towns divided into wards the board by resolution may limit the number of trustees to six, provided that at least one month's notice was given of the intention to consider a resolution to that effect, and such limitation shall not come into operation until the close of the current school year.

Effect of adoption of resolution

(4) When such resolution has been adopted, the election shall thereafter be by vote of the separate school ratepayers of the whole municipality.

Retirement

(5) The board shall by lot determine what trustee or trustees shall retire in addition to the number retiring by annual rotation in order to admit of the election of three new trustees at the next annual election, and thereafter three trustees shall be elected annually by the separate school ratepayers of the whole municipality to fill the place of the same number retiring by rotation. R.S.O. 1950, c. 356, s. 36.

Trustees in village

**36.**—(1) In every village there shall be six trustees, each of whom, after the first election, shall continue in office for two years.

Retirement by rotation

(2) Three of the trustees chosen at the first election to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall retire from office at the time appointed for the next annual school election and the other three shall continue in office one year longer. R.S.O. 1950, c. 356, s. 37.

Term of office

**37.** A trustee shall continue in office until his successor has been elected. R.S.O. 1950, c. 356, s. 38.

Nominations

**38.**—(1) A meeting of the supporters of every urban school for the nomination of candidates for the office of school trustee shall take place at noon on the last Wednesday in the month of December annually or, if the board by resolution so directs, at the hour of 8 o'clock in the afternoon, or if that day is a holiday, on the day following, at such place as shall from time to time be fixed by resolution of the board, and in municipalities divided into wards in each ward if the board thinks fit, and the board shall give at least six days notice of the meeting. R.S.O. 1950, c. 356, s. 39 (1); 1960, c. 109, s. 4.

Returning officer

(2) The board shall by resolution name the returning officers to preside at the meetings for the nomination of candidates, and in case of the absence of any such officer, a chairman chosen by the meeting shall preside.

(3) If at the meeting only the number of candidates necessary to fill the vacant offices is proposed and seconded, the returning officer or chairman, after the lapse of one hour, shall declare such candidates duly elected, and shall notify the secretary of the board; but if two or more candidates are proposed and seconded for any one office, and a poll in respect of the office is demanded by any candidate or school supporter, the returning officer or chairman shall adjourn the proceedings for filling the office until the first Wednesday of the month of January then next, when polls shall be opened at such places and in each ward, where wards exist, as is determined by resolution of the board.

Proceedings at nominations

(4) The polls shall be opened at 10 o'clock in the forenoon and shall continue open until 5 o'clock in the afternoon and no longer, and a poll may close at any time after 11 o'clock in the forenoon when a full hour has elapsed without any vote having been polled.

Hours of polling

(5) The board shall, before the second Wednesday in December in each year, by resolution, fix the places for the nomination meetings and for holding the election in case of a poll, and name the returning officers who shall preside at the respective polling places, and forthwith give public notice thereof.

Place for nomination and election

(6) The returning officer or chairman shall, on the day after the close of the election, return the poll book to the secretary of the board with his solemn declaration thereto annexed that the poll book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer.

Duty of returning officer after close of election

(7) The secretary shall add up the number of votes for each candidate for any office as appears from the poll book so returned, and shall declare elected the candidate or candidates having the highest number of votes.

Duty of secretary

(8) If two or more candidates have an equal number of votes, at the first meeting of the board held after the election the member present who is assessed highest as a supporter of the school on the last revised assessment roll shall give a vote for one or more of such candidates so as to decide the election.

Casting vote

(9) The voting for the election of trustees and for all other urban school purposes shall be by open vote, except as otherwise provided by section 39.

Voting to be open

(10) In a city or town divided into wards, the clerk of the municipality shall furnish to the board, within three days after request in writing, the voters' list for each ward, annexing thereto a list of the names of all supporters of separate schools for Roman Catholics.

Furnishing voters' list in cities and towns divided into wards

Furnishing voters' list in towns not divided into wards, and in villages

(11) In towns not divided into wards and in villages the clerk of the municipality shall furnish to the board within three days after request in writing the voters' list for each polling subdivision in such town or village as provided by subsection 10.

For each polling place

(12) The board shall provide every polling place with such lists and with a poll book.

Entries in poll book

(13) At every election at which a poll is demanded, the returning officer or chairman or the poll clerk shall enter in the poll book at the head of separate columns the names of the candidates proposed and seconded at the nomination, and shall opposite to such columns write the names and residences of the school supporters offering to vote at the election, and shall in each column in which is entered the name of the candidate voted for set the figure "1" opposite the voter's name, and where a poll is demanded upon any school question the name of each voter shall be similarly placed opposite separate columns headed "for" or "against".

Declaration by voters

(14) If an objection is taken to the right of any person to vote, the returning officer or chairman shall require the person whose right to vote is objected to to take the declaration mentioned in subsection 12 of section 27.

Where non-resident is to vote

(15) Where a school supporter resides without the municipality in which the school is situate, he is entitled to vote in that ward or division of the municipality in which the school-house is situate that is nearest to his place of residence.

Furnishing voters' list of separate school supporters to board

(16) In cities and towns, the clerk of the municipality, instead of furnishing to the board the lists as provided in subsection 10 or 11 shall, within three days after request in writing, furnish to the board the voters' list for each ward or polling subdivision, as the case may be, with the letter "S" marked or written therein opposite the name of every supporter of separate schools for Roman Catholics and after the name of every Roman Catholic wife or husband of such supporter. R.S.O. 1950, c. 356, s. 39 (2-16).

Adoption of ballot and manner of voting

**39.**—(1) An urban separate school board may, by resolution passed between the 1st day of May and the 1st day of October in any year,

- (a) provide for the election of trustees to be by ballot; and
- (b) require the vote to be conducted in the same manner as municipal elections in the municipality in which the separate school is situated.

(2) The board may in like manner discontinue the use of the ballot or the voting conducted in the manner of the municipal elections. Discontin-  
tuance

(3) Where the board requires the voting to be by ballot or the vote to be conducted in the same manner as the municipal elections and elections are so held, no change shall be made in the mode of voting for a period of three years. Mode of  
voting not  
to be  
discontinued  
for three-  
year period

(4) Where a resolution is passed under subsection 1 requiring the vote to be conducted in the same manner as municipal elections, Time and  
place, etc.,  
of election

- (a) the election of trustees in that year and in subsequent years shall be held at the same place and time and conducted by the same officers and in the same manner as the municipal elections in the municipality in which the separate school is situated;
- (b) the meeting of the supporters of the urban separate school for the nomination of candidates shall be held on the same day as the meeting for the nomination of candidates for council;
- (c) the board shall advertise in each of its schools the place and time of the nomination meeting and the secretary of the board shall report the names of the nominees to the clerk of the municipality; and
- (d) the provisions of *The Municipal Act* with respect to elections except those with respect to the nomination of candidates apply *mutatis mutandis* except that the oath to be taken by a voter shall be in the form prescribed in clause *a* of section 40. 1960, c. 109, s. 5. R.S.O. 1960,  
c. 249

**40.** Where the voting is to be by ballot, the provisions of *The Municipal Act* for and relating to holding the municipal elections, including those as to recount, secrecy of proceedings, offences and penalties, apply *mutatis mutandis*, except that, Municipal  
Act to  
apply

- (a) the oath to be taken by a voter shall be: Form of  
oath

You swear that you are the person named (*or intended to be named*) in the list of voters now shown to you (*showing the list to the voter*);

That you are a ratepayer;

That you are of the full age of twenty-one years;

That you are a Roman Catholic separate school supporter;

That you have not voted before at this election;

That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;

That you have not received anything, nor has anything been promised you, directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team or any other service connected with this election;

That you have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or refrain from voting at this election;

So help you God;

Casting  
vote

- (b) when the result of the polling is indecisive by reason of two or more candidates having an equal number of votes, all of them shall be notified of the first meeting of the board after the election, and the member of the board present at such meeting who is assessed for the largest sum on the last revised assessment roll shall, before the organization of the board, give a vote for one or more of such candidates so as to decide the election;

Duties of  
secretary

- (c) the duties to be performed by the clerk shall be performed by the secretary; and

Substituted  
term

- (d) the word "secretary" shall be substituted for the words "clerk" or "clerk of the municipality" wherever they occur. R.S.O. 1950, c. 356, s. 41.

Election of  
trustees,  
who may  
vote

**41.** In cities and towns every person whose name is on the voters' list as entitled to vote at municipal elections and who is a supporter of separate schools for Roman Catholics, or who, being a Roman Catholic, is the wife or husband of a supporter of such separate schools, is entitled to vote at the election of trustees of the separate schools. R.S.O. 1950, c. 356, s. 42.

#### ELECTION IRREGULARITIES

No election  
to be invalid  
for want of  
compliance  
with Act  
where  
result not  
affected

**42.** No election is invalid by reason of non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this Act, and that the non-compliance or mistake or irregularity did not affect the result of the election. R.S.O. 1950, c. 356, s. 43.

#### CONTROVERTED ELECTIONS

Investiga-  
tion of com-  
plaints by  
judge

**43.—(1)** A judge of the county or district court, if a complaint respecting the validity or mode of conducting the election of any trustee in any municipality within his county or district is made to him within twenty days after the election, shall receive and investigate the complaint, and shall thereupon within a reasonable time, in a summary manner, hear and determine the same.



(2) The judge may by order cause the assessment rolls, <sup>Powers of judge</sup> collectors' rolls, poll books and any other records of the election to be brought before him, and may inquire into the facts on affidavit or by oral testimony, and may cause such persons to appear before him as he may deem expedient, and may confirm the election or set it aside, or declare that some other candidate was duly elected.

(3) The judge may order a person found by him not to have <sup>Order of judge</sup> been duly elected to be removed, and if the judge determines that any other person was duly elected, he may order him to be admitted, and if he determines that no other person was duly elected instead of the person removed, he shall order a new election to be held and shall report his decision to the secretary of the board.

(4) The provisions of *The Municipal Act* as to bribery and <sup>Bribery and undue influence</sup> undue influence apply, and, where the election is complained of on those grounds, the inquiry by the judge in reference thereto shall be by oral testimony only. R.S.O. 1950, c. 356, s. 44. <sup>R.S.O. 1960, c. 249</sup>

#### BOARD MEETINGS

**44.**—(1) Special meetings of the board may be called by <sup>Special meetings</sup> the chairman, and shall be called on the request in writing of two members of the board specifying the objects for which the meeting is to be held, which shall also be stated in the notice calling the meeting. R.S.O. 1950, c. 356, s. 45 (4).

(2) For the purposes of subsection 8 of section 38, a <sup>Quorum</sup> majority of the trustees remaining in office constitutes a quorum. R.S.O. 1950, c. 356, s. 45 (6); 1954, c. 89, s. 4 (2).

#### DUTIES AND POWERS OF TRUSTEES

**45.**—(1) It is the duty of every board and it has power, <sup>Duties of board:</sup>

- (a) to appoint a secretary and a treasurer or a secretary-treasurer and one or more collectors, if requisite, of <sup>appointment of officers</sup> the school fees or rate-bills, and the collector or collectors, and secretary and treasurer, or secretary-treasurer may be members of the board, and shall discharge duties, are subject to obligations and penalties, and have powers similar to those of like officers of the corporation of a municipality;
- (b) to appoint annually on or before the 1st day of <sup>appointment of auditors</sup> December an auditor or auditors;
- (c) to lay all the accounts of the board before the <sup>accounts</sup> auditors, together with the agreements, vouchers, con-

tracts and books in its possession, and to afford the auditors all the information in its power as to the receipt and expenditure of school money; R.S.O. 1950, c. 356, s. 46, cls. (a-c).

to provide  
accommoda-  
tion and  
teachers

- (d) to provide adequate accommodation and legally qualified teachers for all children who have the right to attend a school operated by the board; 1958, c. 99, s. 2 (1).

to acquire  
school sites

- (e) to acquire or rent school sites and premises and build school buildings; 1954, c. 89, s. 5 (1).

collection  
of rates

- (f) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of February in each year, for the levying and collection of all sums for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board, laying before the council an estimate of such sums, and such moneys shall be paid to the board on the warrant of the proper inspector;

notice of  
names and  
addresses

- (g) to give notice in writing to the Department, before the 15th day of January in each year, of the names and post office addresses of the trustees then in office and of the teachers employed by the board, and give reasonable notice in writing from time to time of any changes therein;

exemptions  
and notice  
thereof

- (h) to exempt, in its discretion, from the payment of school rates wholly or in part, any indigent person, and to give notice of the exemption, when the school rate is collected by the municipal council, to the clerk of the municipality on or before the 1st day of February;

possession  
and custody  
of property

- (i) to take possession and have the custody and safe keeping of all school property, acquired or given for school purposes, and to acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received; and to dispose by sale or otherwise of any school site or school property not required in consequence of a change of school site or other cause, and to convey the same and apply the proceeds thereof to school purposes or as provided by this Act;

- (j) to exercise all such other powers and perform all such <sup>other powers and duties</sup> other duties of public school boards as are applicable to the case of separate schools, except as to matters as to which other provision is made by this Act; R.S.O. 1950, c. 356, s. 46, cls. (f, g, i, k, m).

(2) It is the duty of every urban board and it has power <sup>Appointment of committees by urban boards</sup> to appoint from its members annually, or oftener if deemed expedient, and under such regulations as may be deemed proper, a committee of not more than three for the special charge, oversight and management of each school within the city, town or village, and to see that all the schools under its charge are conducted according to the regulations. R.S.O. 1950, c. 356, s. 46, cl. (g).

- (3) It is the duty of every rural board and it has power, <sup>Duties of rural boards:</sup>

- (a) to appoint the place of each annual school meeting of <sup>time and place of meetings</sup> the supporters of the school, and the time and place of any special meeting for,
- (i) filling any vacancy in the board,
  - (ii) the selection of a new school site,
  - (iii) the appointment of a school auditor, or
  - (iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting; R.S.O. 1950, c. 356, s. 46, cl. (t).

- (b) to arrange for the payment of teachers' <sup>payment of salaries</sup> salaries monthly and, if necessary, to borrow on its promissory note, under the seal of the corporation, at interest not exceeding 8 per cent per annum, the money required for that purpose until the taxes are collected; R.S.O. 1950, c. 356, s. 46, cl. (u); 1958, c. 99, s. 2 (2).
- (c) to cause to be prepared and read at the annual school <sup>annual report</sup> meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school money during such year, and signed by the chairman and by one or both of the school auditors;
- (d) to ascertain and report to the Minister, at least once <sup>report on deaf, dumb or blind</sup> in each year, the names and ages of all children of school age who would otherwise be required to attend a school under its charge, who are deaf and dumb or blind;

providing  
attendance  
for minor  
surgical  
operations

- (e) if deemed expedient, to provide for surgical treatment of children attending the school suffering from minor physical defects where, in the opinion of the teacher and (where a school nurse and medical inspector is employed) of the nurse and medical inspector, the defect interferes with the proper education of the child, and to include in their estimates for the current year the funds necessary for cases where the parents are not able to pay. R.S.O. 1950, c. 356, s. 46, cls. (v-x).

#### VACANCY IN OFFICE OF TRUSTEE

Vacancy in  
office of  
trustee

**46.**—(1) If a vacancy in the office of trustee for a rural school occurs from any cause the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor held office.

Proceed-  
ings at new  
election

(2) The new election shall be conducted in the same manner and is subject to the same provisions as an annual election. R.S.O. 1950, c. 356, s. 47.

#### ASSESSMENTS, BORROWING POWERS AND GRANTS

Exemption  
of supporters  
of separate  
schools from  
payment  
of public  
school rates

**47.**—(1) Every person paying rates, whether as owner or tenant, who by himself or his agent, on or before the 15th day of July in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and a supporter of a separate school situate in the municipality or in a municipality contiguous thereto is exempt from the payment of all rates imposed for the support of public schools and of public school libraries, or for the purchase of land or the erection of buildings for public school purposes within the city, town, village or section in which he resides, for the following year, and every subsequent year thereafter while he continues a supporter of a separate school.

No renewal  
required

(2) The notice is not required to be renewed annually.

Time for  
notice by  
separate  
school  
supporter  
becoming  
resident

(3) Where an owner or tenant is not, on or before the 15th day of July in any year, a resident of the municipality or rated upon the assessment roll thereof, but subsequently becomes so resident or liable to be so rated before the time for appealing from the assessment to the court of revision, he is entitled to give the notice provided for by this section at any time before the expiration of the time for appealing, and a notice so given has the same effect as if given on or before the 15th day of July of the year in which it is given.

(4) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof. Certificate of notice

(5) Any person who fraudulently gives such notice, or willfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and liable to a fine of \$40. Penalty for wilful false statements in notice

(6) Nothing in this section exempts any person from paying any rate for the support of public schools, or public school libraries, or for the erection of a schoolhouse or schoolhouses, imposed before the establishment of the separate school. As to rates imposed before separate school established  
R.S.O. 1950, c. 356, s. 56.

**48.** Subject to the other provisions of this Part, no person shall be deemed a supporter of a separate school unless he resides within three miles in a direct line of the site of the schoolhouse. Residence of supporters of separate schools  
R.S.O. 1950, c. 356, s. 57.

**49.—(1)** A supporter of a separate school whose residence is within three miles of two or more separate schools is *ipso facto* a supporter of the school nearest by road to his place of residence. Where supporter resides within three miles of two or more schools

(2) A supporter of a separate school having a debenture debt is not bound to become a supporter of another school while any part of such debt remains unpaid. Saving as to debenture debt  
R.S.O. 1950, c. 356, s. 58.

**50.** When a supporter of an urban school resides without the municipality in which the school is situate he is entitled to vote in the ward or polling subdivision in which the schoolhouse nearest to his place of residence is situate if within the distance of three miles in a direct line. Where person residing out of municipality to vote  
R.S.O. 1950, c. 356, s. 59.

**51.—(1)** Where a person is entitled to be and is a supporter of a separate school situate in a municipality other than that in which he resides he is exempt from the payment of separate school taxes or rates in the municipality in which he resides, but is liable to pay and shall pay the school taxes or rates to the board of the school of which he is a supporter, and the same shall be based upon his assessment in the municipality in which he resides. Liability of non-resident supporter

(2) The board of the school of which he is a supporter shall on or before the 1st day of August in each year notify the clerk of the municipality in which such supporter resides that he is a supporter of such school, and of the amount of the How enforceable

school taxes or rates payable by him, and the same shall be entered upon the collector's roll of the municipality for that year and collected in like manner as other taxes, and when collected shall be paid over to the board. R.S.O. 1950, c. 356, s. 60.

Right of non-residents to be assessed for separate school  
R.S.O. 1960, c. 23

**52.** Any person who, if resident in a municipality, would be entitled to be a supporter of a separate school therein or in an adjoining municipality may, on giving the notice provided for by *The Assessment Act* that he is the owner of unoccupied land situate in either municipality, require that all such land as is situate either in the municipality wherein the separate school is situate or within the distance of three miles in a direct line of the site of the separate school shall be assessed for the purposes of the separate school, and the assessor shall thereupon enter such person in the assessment roll as a separate school supporter only. R.S.O. 1950, c. 356, s. 61.

Notice of withdrawal of support

**53.—**(1) A Roman Catholic who desires to withdraw his support from a separate school shall give notice thereof in writing to the clerk of the municipality on or before the fourth Wednesday in May in any year, otherwise he shall be deemed to be a supporter of the school.

Exception

(2) A person who has withdrawn his support from a Roman Catholic separate school is not exempt from paying rates for the support of separate schools or separate school libraries, or for the erection of a separate schoolhouse, imposed before the time of his withdrawing such support. R.S.O. 1950, c. 356, s. 62.

Clerk to keep index book

**54.—**(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 47, 52, 57 and 58, or by former Acts respecting separate schools.

Entries

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 53, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the court of revision, by a judge of the county or district court, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance.

(3) The index book shall be open to inspection by any <sup>Inspection</sup> ratepayer.

(4) The clerk shall file and carefully preserve all such <sup>Filings</sup> notices heretofore or hereafter received.

(5) The assessor shall be guided by the entries in the index <sup>Assessor to be guided by index book</sup> book in ascertaining who have given the prescribed notices. R.S.O. 1950, c. 356, s. 63.

**55.**—(1) If it appears to the council of any municipality <sup>Correction of mistakes in assessing</sup> after the final revision of the assessment roll that through mistake or inadvertance a ratepayer has been entered on the roll either as a supporter of separate schools or as a supporter of public schools the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board; but it shall not be competent for the council to reverse the decision of the court of revision, a judge, the Ontario Municipal Board or the Court of Appeal on appeal.

(2) In case of such action by a council the ratepayer is <sup>Liability</sup> liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. R.S.O. 1950, c. 356, s. 64.

**56.**—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under <sup>Distinguishing the school rates</sup> the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes.

(2) The proceeds of any such rate shall be kept distinguished <sup>Idem</sup> by the collector and accounted for accordingly. R.S.O. 1950, c. 356, s. 65.

**57.**—(1) Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant <sup>Case of owner and occupant</sup> shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves alters or affects this provision.

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant <sup>When owner may exercise option</sup> or occupant to pay the same, the owner is compelled to pay such school rate, he may direct the same to be applied to either public or separate school purposes, and if the public school rate

and the separate school rate are not the same he is only liable to pay the amount of the rate of the schools to which he directs his money to be paid. R.S.O. 1950, c. 356, s. 66.

Right of  
corporation  
to support  
separate  
schools

**58.**—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of the separate school.

R.S.O. 1960,  
c. 23

Duty of  
assessor

(2) The assessor shall thereupon enter the corporation as a separate school supporter in the assessment roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes.

How pro-  
portions  
settled

(3) Unless all the stock or shares are held by Roman Catholics the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares.

Effect of  
notice

(4) A notice given in pursuance of a resolution of the directors is sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors.

Filing  
notice

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect an assessment roll.

Search for  
notices

(6) The assessor shall in each year, before the return of the assessment roll, search for and examine all notices that may be so on file and shall follow and conform thereto and to the provisions of this Act. R.S.O. 1950, c. 356, s. 67.

Powers of  
trustees

**59.**—(1) The board of a separate school may impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing



towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities.

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment, by reason of there being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon.

(3) The clerk shall make a return to the county, city, town or village treasurer of such land and the arrears of separate school rates thereon.

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes.

(5) The council of the township, village, town or city in which the separate school is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. R.S.O. 1950, c. 356, s. 68.

**60.** The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. R.S.O. 1950, c. 356, s. 69.

**61.** The clerk of a municipality in which there is a separate school shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons appearing upon the assessment roll for the current year who have given the notice required by section 47, with the amount for which each person has been rated upon the assessment roll. R.S.O. 1950, c. 356, s. 70.

**62.—(1)** A municipal council, if so requested by the board at or before the meeting of the council in the month of February in any year or prior thereto if required by the council, shall, through its collectors and other municipal officers, cause to be levied in such year upon the taxable property liable to pay the same all sums of money for rates or taxes imposed thereon in respect of separate schools.

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation or any of its officers shall be borne by the corporation, and the rates or taxes, as and when collected, shall within a reasonable time

thereafter, and not later than the 14th day of December in each year, be paid over to the board without any deduction whatever. R.S.O. 1950, c. 356, s. 71.

Agreements  
between  
municipality  
and trustees  
as to pay-  
ment in lieu  
of separate  
school rate

**63.**—(1) A separate school board and the council of a municipality, three-fifths of whose members are not separate school supporters, may enter into an agreement for a term of years that for each year of the term and at such times and in such sums as may be agreed upon, in lieu of and as being the amount to be levied and collected in such year for separate school purposes, there shall be paid by the corporation of the municipality to the board a fixed proportion of the total amount levied and collected within the municipality in and for the year for both public and separate school purposes.

Exception

(2) If in and for any year the rate of assessment actually levied for separate school purposes within the municipality is not the same as that actually levied therein for public school purposes the agreement shall not be in force for or apply to such year.

Termina-  
tion

(3) The agreement may be determined by either of the parties thereto at the end of any calendar year on giving six months previous notice to the other party. R.S.O. 1950, c. 356, s. 72.

Right to  
establish  
and main-  
tain con-  
tinuation  
schools

**64.** The separate school board of a municipality or in a school section or union school section has and may exercise the same rights, powers and privileges with respect to the establishment and maintenance of continuation schools and is subject to the same duties and obligations with respect to such schools as the public school board of the municipality, section or union school section as the case may be. R.S.O. 1950, c. 356, s. 73.

Sinking  
funds for  
separate  
school  
debentures

**65.** Notwithstanding anything contained in any by-law or resolution heretofore or hereafter passed by any board of separate school trustees or in any debenture issued thereunder, the board may at any time by by-law provide that all moneys theretofore or thereafter collected on account of sinking fund for payment of any such debenture shall,

R.S.O. 1960,  
c. 249

- (a) be paid over to the Treasurer of Ontario to be dealt with as provided in section 315 of *The Municipal Act*; or
- (b) be invested in securities of the Province of Ontario and for that purpose the board may sell or dispose of any securities in which such sinking fund moneys

have theretofore been invested or withdraw such moneys from any loan company, trust company or bank in which they may be deposited. R.S.O. 1950, c. 356, s. 74.

**66.**—(1) The board of a separate school may pass by-laws for borrowing money, by mortgages or other instruments, upon the security of the schoolhouse property and premises and any other real or personal property vested in the board and upon the separate school rates for the purpose of paying the cost of school sites, school buildings or additions or repairs thereto or for any other school purposes, and any ratepayer, who was a separate school supporter at the time when the loan was effected on the security of the property or rates or who became a supporter during the term of the loan, shall, while resident within three miles of the separate school, continue to be liable for the rate to be levied for the repayment of the money so secured. 1957, c. 112, s. 2.

Borrowing  
powers of  
trustees of  
separate  
schools

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Terms of  
payment

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures are a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Debentures

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act.

Maturity

(5) Where the debt is not payable by instalments the board shall levy in each year during its currency in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable, which shall be invested in the manner provided by *The Municipal Act* as to the investment of sinking funds. R.S.O. 1950, c. 356, s. 75 (2-5).

Sinking  
fund

R.S.O. 1960,  
c. 249

Publication  
of notice  
of by-law

(6) Before any such by-law is acted upon, notice of the passing of the by-law shall be published for three consecutive weeks in a newspaper having general circulation in the area within three miles of the separate school stating,

- (a) the purpose for which the money is to be borrowed;
- (b) the amount to be borrowed and the security therefor;
- (c) the terms of repayment including the rate of interest,

and, if no application to quash the by-law is made for three months after publication of notice of the passing thereof, the by-law is valid notwithstanding any want of substance or form in the by-law or in the time or manner of passing the by-law. 1955, c. 78, s. 2.

Amounts

(7) The debentures issued under the by-law may be for such amounts as the board may deem expedient. R.S.O. 1950, c. 356, s. 75 (7).

Right of  
separate  
schools to  
a share of  
municipal  
grant

**67.**—(1) Every separate school is entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils attending the school during the next preceding twelve months, or during the number of months that may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils attending school in the same city, town, village or township.

Apportion-  
ment

(2) Where the grant is made by a county council it shall be apportioned in like manner as the legislative grant.

No share  
of local  
assessment  
for public  
schools

(3) A separate school is not entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. R.S.O. 1950, c. 356, s. 76.

#### MISCELLANEOUS

Visitors of  
separate  
schools

**68.** The Minister, the judges of all courts, members of the Assembly, heads of the municipal corporations in their respective localities, the inspectors of public schools and clergymen of the Roman Catholic Church are visitors of separate schools. R.S.O. 1950, c. 356, s. 77.

Inspection  
of schools

**69.** The schools with their registers are subject to such inspection as may be directed by the Minister and are subject also to the regulations. R.S.O. 1950, c. 356, s. 78.

**70.** The Minister may, subject to the regulations, constitute a separate school in any county or district a model school for the training of teachers for separate schools. R.S.O. 1950, c. 356, s. 79.

**71.** In the event of a disagreement between a board and the inspector of public schools or any municipal authority or of a complaint against the election of a rural school trustee or against the establishment of a school in close proximity to an existing school, or any other proceeding of a rural school meeting, signed by five supporters of the school concerned or of such existing school, the matter in difference shall be determined by the Minister, subject to an appeal to the Lieutenant Governor in Council, whose decision is final. R.S.O. 1950, c. 356, s. 80.

**72.—(1)** The trustees of every separate school are personally responsible for the amount of any school money forfeited by or lost to the board in consequence of their neglect of duty.

(2) The amount so forfeited or lost shall when collected be applied in the manner provided for by this Act. R.S.O. 1950, c. 356, s. 100.

**73.** Except as otherwise provided, the fines imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act* and shall be applied to such separate school purposes as the Minister may direct. R.S.O. 1950, c. 356, s. 101.

## FORM 1

## FORM OF INDEX BOOK

## (Section 54 (1) )

Names	Notices claiming exemption, when received	Remarks
Allen, John.....	3rd February, 19....	Notice of withdrawal received 1st January, 19....
Ardagh, Joseph.....	3rd February, 19....	Disallowed by Court of Revision, 1st June, 19....
Ashbridge, Robert.....	3rd February, 19....	

## FORM 2

## NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

*(Section 58 (1) )*To the Clerk of *(describing the municipality)*

Take notice that *(here insert the name of the corporation so as to sufficiently and reasonably designate it)* pursuant to a resolution in that behalf of the directors requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within *(giving the name of the municipality)* as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, one-fifth *(or as the case may be)* of the land and business or other assessments.

Given on behalf of the company this *(here insert date)*.

R. S., Secretary of the Company.

R.S.O. 1950, c. 356, Form 2.

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## CHAPTER 369

## The Settled Estates Act

## 1.—(1) In this Act,

Interpretation

- (a) “court” means the Supreme Court;
- (b) “income” includes rents and profits;
- (c) “land” includes incorporeal hereditaments and an undivided share in land;
- (d) “possession” includes receipt of income;
- (e) “settled estate” means land and all estates or interests in land that are the subject of a settlement;
- (f) “settlement” means a statute, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which land or any estate or interest in land stands limited to or in trust for any persons by way of succession, including any such instruments affecting the estates of any one or more of such persons exclusively. R.S.O. 1950, c. 357, s. 1 (1).

(2) All estates or interests in remainder or reversion not disposed of by the settlement, and reverting to a settlor or descending to the heir, or as upon an intestacy to the representative of a testator, shall be deemed to be estates coming to such settlor, heir or representative under or by virtue of the settlement.

Estates in remainder or reversion not disposed of by settlement

(3) In determining what are settled estates within the meaning of this Act the court shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the settlement taking effect. R.S.O. 1950, c. 357, s. 1 (3, 4).

Determining what are settled estates

2.—(1) The court, if it deems it proper and consistent with a due regard for the interests of all persons entitled under the settlement, and subject to the provisions and restrictions of this Act, may authorize leases of any settled estate or of any rights or privileges over or affecting any settled estate, for any purpose whatsoever, the following conditions being observed:

Power to authorize leases of settled estates

When lease  
to take  
effect

1. Every such lease shall be made to take effect in possession at or within one year after the making thereof, and shall be for such term of years as the court shall direct, where the court is satisfied that it is beneficial to the inheritance to grant a lease.

Best rent  
to be  
reserved

2. On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener, and to be incident to the immediate reversion; but in the case of a mining lease, a repairing lease or a building lease a nominal rent or any smaller rent than the rent to be ultimately made payable may, if the court thinks fit so to direct, be made payable during all or any part of the first five years of the term of the lease.

Exception

Reservation  
of rent in  
leases of  
earth, coal,  
stone or  
mineral

3. Where any such lease is of any earth, coal, stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested, when and so long as the person for the time being entitled to the receipt of the rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work the earth, coal, stone, or mineral for his own benefit, one-fourth part of the rent, and in other cases three-fourth parts thereof, and in every such lease sufficient provision shall be made to ensure such application of that portion of the rent by the appointment of trustees or otherwise, as the court deems expedient.

Cutting  
timber

4. No such lease shall authorize the cutting of any timber or the felling of any trees except in the ordinary course of husbandry, or so far as shall in the judgment of the court be necessary, nor shall it be made without impeachment of waste.

Form of  
lease

5. Every such lease shall be by deed, in duplicate, executed by the lessor and lessee, and shall be subject to the statutory right of re-entry for non-payment of rent contained in *The Landlord and Tenant Act*.

R.S.O. 1960,  
c. 206

Agreements  
for renewal

- (2) Any such lease may contain an agreement for the renewal or renewals thereof if the court thinks fit, and the court may determine the length of time for which the renewal or renewals, if any, may be made. R.S.O. 1950, c. 357, s. 2.

Special  
covenants

3. Subject and in addition to the conditions hereinbefore mentioned every such lease shall contain such covenants, conditions and stipulations as the court deems expedient with reference to the special circumstances of the demise. R.S.O. 1950, c. 357, s. 3.



**4.** The power to authorize leases conferred by this Act <sup>Leases of parts of settled estates</sup> authorizes leases either of the whole or any part of the settled estate, and may be exercised from time to time. R.S.O. 1950, c. 357, s. 4.

**5.** A lease, whether granted in pursuance of this Act or <sup>Surrender and renewal</sup> otherwise, may be surrendered either for the purpose of obtaining a renewal of it or not, and the power to authorize leases conferred by this Act shall authorize a new lease of the whole or any part of the hereditaments comprised in any surrendered lease. R.S.O. 1950, c. 357, s. 5.

**6.** The power to authorize leases conferred by this Act <sup>Preliminary contracts</sup> extends to authorize preliminary contracts to grant such leases, and any of the terms of such contracts may be varied in the leases. R.S.O. 1950, c. 357, s. 6.

**7.** The power to authorize leases conferred by this Act may be exercised by the court either by approving of a particular lease or by ordering that the power of leasing in conformity <sup>Mode in which leases may be authorized</sup> with this Act, shall be vested in trustees in the manner herein-after mentioned. R.S.O. 1950, c. 357, s. 7.

**8.** Where application is made to the court either to approve <sup>What evidence to be produced on an application to authorize leases</sup> of a particular lease or to vest any power of leasing in trustees the court shall require the applicant to produce such evidence as it deems sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized. R.S.O. 1950, c. 357, s. 8.

**9.** Where a particular lease or contract for a lease has been <sup>Direction as to who shall be lessor</sup> approved by the court the court shall direct what person shall execute the same as lessor, and the lease or contract executed by such person shall take effect in all respects as if he had been at the time of the execution thereof absolutely entitled to the whole estate or interest that is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1950, c. 357, s. 9.

**10.** Where the court deems it expedient that any general <sup>When powers of leasing may be vested in trustees</sup> power of leasing any settled estate conformable with this Act should be vested in trustees it may, by order, vest any such power accordingly either in the existing trustees of the settlement or in any other person or persons, and the power, when exercised by such trustees, shall take effect in all respects as if the power so vested in them had been originally contained in

the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs, and in every such case the court may impose any conditions as to consents or otherwise on the exercise of the power and may also authorize the insertion of provisions in any such order for the appointment of new trustees from time to time for the purpose of exercising the power of leasing. R.S.O. 1950, c. 357, s. 10.

Conditions  
that leases  
be settled  
by the  
court

**11.** In any order under this Act for vesting any power of leasing in any trustees or other person or persons no conditions shall be inserted requiring that the lease thereby authorized shall be submitted to or be settled by the court or be made conformable with a model lease, unless the person applying for the order desires to have any such condition inserted or it appears to the court that there is some special reason for the insertion of such a condition. R.S.O. 1950, c. 357, s. 11.

Striking  
out such  
conditions

**12.** In any order, whether under this Act or under any other Act, in which any such condition has been inserted, any person interested may apply to the court to alter the order by striking out the condition, and the court may alter the order accordingly, and the order so altered has the same validity as if it had originally been made in its altered state; but the court may decline to act under this provision in any case in which it appears to the court that for any special reason such a condition is necessary or expedient. R.S.O. 1950, c. 357, s. 12.

Powers of  
court:

**13.—(1)** The court, if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act, may,

to authorize  
mortgages  
for purpose  
of repairs,  
etc.

(a) from time to time authorize a mortgage of the whole or any part of any settled estate for the purpose of raising money to repair, rebuild or alter any existing building upon the estate, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any encumbrance thereon;

to authorize  
sales of  
settled  
estates and  
of timber

(b) from time to time authorize a sale of the whole or any part of any settled estate or of any easement, right or privilege, of any kind, over or in relation to the same, or of any timber not being ornamental timber growing on the settled estate;

to sanction  
proceedings  
for protec-  
tion of estate

(c) sanction any action, defence, petition to the Legislature or other proceeding appearing to the court necessary for the protection of any settled estate, and

- order that all or any part of the costs and expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the
- rents and profits of the settled estate, or out of any money or investment representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investment, or out of any accumulations of rents, profits or income.

(2) Such mortgage shall be authorized where the court is of the opinion that the interests of the estate or any part thereof or of the persons entitled to the estate or any part thereof require, or will be substantially promoted by such mortgage.

(3) Every such sale shall be conducted and confirmed in the same manner as by the rules and practice of the court is required in the sale of land under an order of the court. R.S.O. 1950, c. 357, s. 13.

**14.** Where land is sold for building purposes the court may allow the whole or any part of the consideration to be a rent issuing out of the land, which may be secured and settled in such manner as the court approves. R.S.O. 1950, c. 357, s. 14.

**15.** On any sale of land, any earth, coal, stone or mineral may be excepted and any rights or privileges may be reserved, and the purchaser may be required to enter into any covenants or submit to any restrictions that the court deems advisable. R.S.O. 1950, c. 357, s. 15.

**16.—(1)** The court, if it deems it proper and consistent with a due regard for the interests of all persons entitled under the settlement and subject to the provisions and restrictions of this Act, may from time to time direct that any part of any settled estate be laid out for streets, roads, paths, squares, gardens, or other open spaces, or for sewers, drains or watercourses, either to be dedicated to the public or not, and may direct that the parts so laid out shall, subject to this Act, remain vested in the trustees of the settlement or be conveyed to or vested in any other trustees upon such trusts for securing the continued appropriation thereof to such purposes in all respects and with such provisions for the appointment of new trustees when required as the court deems advisable.

(2) Where any part of any settled estate is directed to be laid out for such purposes the court may direct that open spaces, sewers, drains or watercourses, including all necessary and proper fences, pavings, connections and other works incidental thereto, be made and executed, and that all or any

part of the expenses in relation to such laying out and making and execution be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate or any part thereof, or out of any money or investments representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investments, or out of any accumulations of rents, profits or income, and the court may also give such directions as it deems advisable for any repair or maintenance of any such streets, roads, paths, squares, gardens or other open spaces, sewers, drains or watercourses or other works out of any such rents, profits, income or accumulations during such period as the court deems advisable.

#### Restrictions

R.S.O. 1960,  
cc. 348, 204,  
249, 296

(3) The powers hereby granted shall be exercised subject to *The Registry Act, The Land Titles Act, The Municipal Act, The Planning Act* and any other Act dealing with the subdivision of land and the registration of plans. R.S.O. 1950, c. 357, s. 16.

#### Directions as to execu- tion of deeds

**17.** On every sale, mortgage or dedication made under the authority of this Act the court may direct what person shall execute the deed of conveyance or mortgage, and the deed or mortgage executed by such person shall take effect as if the settlement had contained a power enabling such person to effect the sale, mortgage or dedication, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1950, c. 357, s. 17.

#### Who may apply for exercise of powers

**18.—(1)** Any of the persons authorized by section 32 to make a demise of a settled estate, and any person entitled to the possession or to the receipt of the rents and profits of a settled estate for any greater estate than the estate mentioned in that section and the assigns of any such person may apply to the court to exercise the powers conferred by this Act.

#### Where jointly entitled

(2) Where two or more persons are entitled as tenants in common, joint tenants or co-parceners, any or either of them may make the application. R.S.O. 1950, c. 357, s. 18.

#### Consent to application

**19.—(1)** Subject to the provisions of this section, every application to the court under this Act shall be made with the concurrence or consent of all those in existence having any estate or beneficial interest under the settlement and of all trustees having any estate or interest on behalf of any unborn child. 1956, c. 84, s. 2.

#### Notice to persons who do not consent or concur

(2) Where the concurrence or consent of any person mentioned in subsection 1 has not been obtained notice shall be given to such person in such manner as the court directs,

requiring him to notify within a time to be specified in the notice whether he assents to or dissents from the application or submits his rights or interests, or so far as they may be affected by the application, to be dealt with by the court, and every notice shall specify to whom and in what manner the notification is to be delivered or left.

(3) If no notification is delivered or left in accordance with the notice and within the time thereby limited the person to or for whom the notice has been given or left shall be deemed to have submitted his rights and interests to be dealt with by the court. Effect of non-reply

(4) Where the concurrence or consent of any such person has not been obtained, and if such person cannot be found or if it is uncertain whether he is living or dead, or if it appears to the court that the notice cannot be given to him without expense disproportionate to the value of the subject matter of the application, the court if it thinks fit, either on the ground of the rights or interests of such person being small or remote or being similar to the rights or interests of any other person or on any other ground, may by order dispense with notice to such person, and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the court. When court may dispense with notice

(5) An order may be made notwithstanding that the concurrence or consent of any such person has not been obtained or has been refused, but the court, in considering the application, shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the court, and to the estates or interests that such persons respectively have or claim to have in the estate, and every order made upon such application has the same effect as if all such persons had been consenting parties thereto. When court may dispense with consent

(6) The court may give effect to any application subject to, and so as not to affect the rights, estate or interest of any person whose concurrence or consent has been refused, or who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the court, or whose rights, estate or interest ought in the opinion of the court to be excepted. R.S.O. 1950, c. 357, s. 19 (2-6). Order saving rights of non-consenting parties

**20.** Notice of any application under this Act shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent to or concurrence in the application is hereby required, and on any other persons who Notice to trustees, etc.

in the opinion of the court ought to be so served, unless the court dispenses with such notice. R.S.O. 1950, c. 357, s. 20.

When notice of application to be given in the newspapers

**21.** Notice of any application, if the court so directs but not otherwise, shall be published in such newspapers as the court directs, and any person, whether interested in the estate or not, may be heard in opposition to or in support of the application, and the court may permit such person to appear and be heard in opposition to or in support of the application on such terms as to costs or otherwise and in such manner as it thinks fit. R.S.O. 1950, c. 357, s. 21.

Where a similar application has been rejected by the Legislature

**22.** The court shall not grant an application where the applicant, or any person entitled, has previously applied to the Legislature for a private Act to effect the same or a similar object, and such application has been rejected on its merits, or reported against by the judges to whom the Bill was referred. R.S.O. 1950, c. 357, s. 22.

Application of money arising from sales, etc.

**23.** All money to be received on any sale effected under the authority of this Act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone or mineral may, if the court thinks fit, be paid to any trustees of whom it shall approve, otherwise the same be paid into court, and such money shall be applied as the court from time to time directs to one or more of the following purposes:

1. The payment of any costs that the court orders to be paid.
2. The discharge of any encumbrance affecting the land in respect of which the money was paid, or affecting any other land subject to the same uses or trusts.
3. The purchase of other land to be settled in the same manner as the land in respect of which the money was paid.
4. The payment of the expenses connected with any buildings, repairs, rebuilding, alterations or improvements authorized to be made upon the settled estate.
5. The payment to any person becoming absolutely entitled. R.S.O. 1950, c. 357, s. 23.

Application of money in certain cases without application to court

**24.** The application of the money if the court so directs may be made by the trustees to whom the court has authorized the money to be paid, without any application to the court, or upon an order of the court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1950, c. 357, s. 24.

**25.** Until the money can be so applied the interest accruing thereon shall be paid as the court directs to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1950, c. 357, s. 25.

Payment of interest

**26.** Where any purchase money paid into court or to trustees under this Act has been paid in respect of a lease for a life or lives or years, or for a life or lives and years, or of any estate in land less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the court may, on the petition of any person interested in the money, order that the interest that accrues thereon be paid in such manner as the court considers will give to the parties interested in the money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which the money has been paid, or as near thereto as may be. R.S.O. 1950, c. 357, s. 26.

Application of money in respect of leases or reversions

**27.**—(1) The court may exercise any of the powers conferred on it by this Act whether the court has already exercised any of such powers in respect of the same property or not; but no such powers shall be exercised if any express declaration that they shall not be exercised is contained in the settlement.

Court may exercise powers repeatedly

(2) The circumstance that the settlement contains powers to effect similar purposes does not preclude the court from exercising any of the powers conferred by this Act if it thinks that the powers contained in the settlement ought to be extended. R.S.O. 1950, c. 357, s. 27.

Notwithstanding express powers

**28.** Nothing in this Act empowers the court to authorize any lease, mortgage, sale or other act beyond the extent to which, in the opinion of the court, the same might have been authorized in and by the settlement by the settlor. R.S.O. 1950, c. 357, s. 28.

Extent of powers

**29.** After the completion of any lease, mortgage or sale, or other act under the authority of the court and purporting to be in pursuance of this Act, the same is not invalidated on the ground that the court was not empowered to authorize the same. R.S.O. 1950, c. 357, s. 29.

Validity of acts

**30.**—(1) An order of the court under jurisdiction conferred by this Act is not, as against a lessee, mortgagee or purchaser, invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service, whether he had or had not notice of any such want.

Orders of court conclusive

Scope of  
section

(2) This section has effect with respect to any lease, mortgage, sale or other act under the authority of the court and purporting to be in pursuance of this Act, or to be in pursuance of any former Act, notwithstanding any exception in any former Act. R.S.O. 1950, c. 357, s. 30.

Costs

**31.** The court may order that any costs or expenses of any persons of and incident to any application under this Act shall be a charge on the land that is the subject of the application, or on any other land included in the same settlement and subject to the same limitations, or may direct the same to be paid out of the corpus or income of any fund realized by the sale, mortgage or lease of such estate under this Act, and the court may also direct that the costs and expenses, to be taxed and paid as the court directs, shall be raised by a sale or mortgage of a sufficient part of such land or out of the rents or profits thereof. R.S.O. 1950, c. 357, s. 31.

Power to  
make leases  
for 21 years

**32.—(1)** The following persons, unless the settlement contains an express declaration that it is not lawful for them to make the demise, may from time to time and without any application to the court, except as hereinafter mentioned, demise the settled estate or any part thereof for any term, not exceeding twenty-one years, to take effect in possession at or within one year next after the making thereof:

1. A person entitled to the possession or to the receipt of the rents and profits of any settled estate, for an estate for life or for a term of years determinable with any life or lives or for any greater estate not holding merely under a lease at a rent.
2. A tenant in fee simple with an executory limitation, gift or disposition over on failure of his issue or in any other event.
3. A tenant for years determinable on life not holding merely under a lease at a rent.
4. A tenant for the life of another not holding merely under a lease at a rent.
5. A tenant for his own or any other life or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate or by conditional limitation or otherwise, or to be defeated by an executory limitation, gift or disposition over, or is subject to a trust for accumulation of income for payment of debts or any other purpose.



6. A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life whether subject to expenses of management or not or until sale of the land or until forfeiture of his interest therein on bankruptcy or other event. R.S.O. 1950, c. 357, s. 32 (1); 1956, c. 84, s. 3.

(2) The powers conferred by subsection 1 may be exercised <sup>Curtesy and dower</sup> by a person entitled to the possession or to the receipt of the rents and profits of unsettled land as tenant by the curtesy or tenant in dower.

(3) Any of the persons empowered by subsections 1 and 2 <sup>Additional powers</sup> to make a demise may also make,

- (a) a lease for giving effect to a contract entered into by any of his predecessors in title for making a lease that, if made by the predecessor, would have been binding on the successors in title; and
- (b) a lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled estate; and
- (c) a lease for confirming, as far as may be, a previous lease being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise as the case may require.

(4) Where two or more persons are under the same settle- <sup>Joint action</sup> ment or otherwise entitled in possession to concurrent estates for life, or are concurrently entitled to the possession or receipts of the rents and profits as in subsection 1 mentioned, they shall, for the purposes of this section, act concurrently.

(5) Every demise made under this section shall be by deed <sup>Form of lease</sup> in duplicate, and for the best rent that can reasonably be obtained, which rent shall be incident to the immediate reversion and shall be made payable half-yearly or oftener.

(6) Such demise shall not be made without impeachment <sup>Conditions</sup> of waste and shall not authorize the cutting of any timber or felling of any trees except in the ordinary course of husbandry, and shall contain a covenant for payment of the rent and such other usual and proper covenants as the lessor thinks fit, and shall be subject to the statutory right of re-entry for non-payment of rent in *The Landlord and Tenant Act*. R.S.O. <sup>R.S.O. 1960, c. 206</sup> 1950, c. 357, s. 32 (2-6).

Against  
whom  
leases  
valid

**33.**—(1) Every demise of a settled estate authorized by section 32 is valid against the person granting the demise and all other persons entitled to estates subsequent to his estate under or by virtue of the same settlement.

Idem

(2) Every demise of unsettled land by a tenant by the curtesy or by a tenant in dower is valid against the person granting the demise and all other persons entitled to an estate subsequent to the estate of such tenant. R.S.O. 1950, c. 357, s. 33.

Provisions  
as to persons  
under dis-  
ability

**34.** All powers given by this Act, and all applications to the court under this Act and consents to and notifications respecting them, may be executed, made or given by, and all notices under this Act may be given to committees on behalf of mentally incompetent persons, and by or to trustees or assignees of the property of bankrupts, debtors in liquidation or insolvents, and the Official Guardian or any other guardian *ad litem* may consent to, and give notifications respecting such applications, and give all notices under this Act on behalf of any infant or person of unsound mind not so found; but in the case of infants or mentally incompetent persons, or persons of unsound mind not so found, all consents to or notifications or notices respecting any application so given by any committee or official guardian or other guardian *ad litem* are subject to the approbation of the court. R.S.O. 1950, c. 357, s. 34.

Married  
women

**35.** A married woman may make or consent to or oppose any application whether she is or is not of full age. R.S.O. 1950, c. 357, s. 35.

No obliga-  
tion to make  
or consent  
to applica-  
tion

**36.** Nothing in this Act imposes any obligation on any person to make or consent to any application to the court or to exercise any power. R.S.O. 1950, c. 357, s. 36.

Tenants for  
life, etc., to  
be deemed  
entitled not  
withstand-  
ing encum-  
brances

**37.** A person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of an estate although his estate may be charged or encumbered, either by himself or by the settlor or otherwise, to any extent; but the estates or interests of the persons entitled to the charge or encumbrance are not affected by the acts of such persons unless they concur therein. R.S.O. 1950, c. 357, s. 37.

Powers  
conferred by  
other Acts

**38.** Nothing in this Act interferes with the exercise of any powers to authorize or grant leases conferred by any other statute. R.S.O. 1950, c. 357, s. 38.

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## CHAPTER 370

**The Settlers' Pulpwood Protection Act****1. In this Act,**Interpre-  
tation

- (a) "company" means a company, partnership or individual operating in Ontario in connection with the purchasing, trading in or holding of pulpwood or pulpwood lands by contract, lease or otherwise, or manufacturing pulpwood, paper of any kind, or other products of pulpwood;
- (b) "Minister" means the Minister of Lands and Forests;
- (c) "regulations" means the regulations made under this Act;
- (d) "settler" means any *bona fide* settler occupying lands under *The Public Lands Act* or engaged in agricultural pursuits involving the clearing and cultivation of land. R.S.O. 1950, c. 358, s. 1. R.S.O. 1960,  
c. 324

**2.—(1)** The Minister or any officer of the Department of Lands and Forests upon the instructions of the Minister may investigate the prices received and the terms and conditions with respect to the sale, disposal or transfer of pulpwood cut on settlers' lands. Power to  
investigate

(2) The Minister may require any company or settler to furnish to him in writing and under oath such information relating to sale, transfer or purchase of pulpwood as the Minister may deem necessary for the purposes of this Act. Furnishing  
of infor-  
mation

(3) Notice may be forwarded to the company or settler by registered mail, and such information as may be required under subsection 2 shall be furnished to the Minister within the time specified in the notice. R.S.O. 1950, c. 358, s. 2. Service of  
notice

**3.** Upon the recommendation of the Minister, the Lieutenant Governor in Council may make regulations, Regulations

- (a) governing the sale and supply to any company of pulpwood cut by any settler, or of pulpwood cut from the lands of any settler;
- (b) fixing the kinds and quantities of pulpwood that may be purchased by any company within any stated

period, having regard to the requirements of such company for such period;

- (c) fixing the prices to be paid by any company to any settler for pulpwood cut on settlers' lands and controlling the method of measuring such pulpwood; and
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 358, s. 3.

Offence

**4.**—(1) Every settler who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100.

Idem

(2) Every company that contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$500 and not more than \$1,000, provided that where any servant, agent or employee of a company contravenes any of the provisions of this Act or the regulations, such company is guilty of an offence and the provisions of this subsection apply accordingly. R.S.O. 1950, c. 358, s. 4.

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## CHAPTER 371

## The Sheriffs Act

1. The Lieutenant Governor in Council may, by a commission under the Great Seal, appoint a sheriff for each county and district. R.S.O. 1950, c. 359, s. 1. Appointment

2.—(1) The Lieutenant Governor in Council may fix and determine the amount of the security to be furnished on behalf of every sheriff, but such amount shall not in any case be less than \$3,000. Security

(2) The security shall be furnished in accordance with *The Public Officers Act* and any Order in Council made under the authority thereof, and within one month after the appointment of the sheriff and before he is sworn into office. The How furnished R.S.O. 1960, c. 326

(3) In case the security is not furnished within such period, or within such further period as the Lieutenant Governor in Council may prescribe, the Lieutenant Governor in Council may revoke the appointment of the sheriff, and his appointment and commission is void from and after the date of the revocation. Revocation of appointment on failure to furnish

(4) The security is not affected nor is the surety released wholly or in part from the obligation assumed by reason of any change by legislative authority or otherwise in the boundaries of the county or district for which the sheriff was appointed, or by reason of any change in his duties. Changes in boundaries of bailiwick not to affect security

(5) Any person may examine the security furnished on behalf of a sheriff and is entitled to take a copy thereof. Right to examine security

(6) Her Majesty, or any person sustaining damage by reason of the default or misconduct of a sheriff, in addition to any right of action against the sheriff, may bring and maintain an action against the surety alone, and the action is not barred by reason of a prior recovery by the same person upon the same security or by reason of a judgment rendered for the defendant in a prior action upon the same security or by reason of any other action being then pending upon the security at the suit of the same plaintiff or any other person for any other distinct cause of action; provided that if the plaintiff has recovered damages in an action against the sheriff for any such default or misconduct and the amount recovered or any part thereof has been paid to the plaintiff, no action lies against Action against surety

the surety for the same cause, except for any amount so recovered and remaining unpaid.

Judgment  
for balance  
of amount  
of security  
where  
surety has  
already been  
held liable

(7) If upon the trial of an action brought against a surety it appears that the plaintiff is entitled to recover, and that the amount that the surety has paid or has become liable to pay under a judgment recovered against him is not equal to the full amount of the security, the court, after deducting from the full amount the sum that the surety has paid or become liable to pay as aforesaid, shall render judgment against the surety for any sum not exceeding the balance of the sum for which he became surety.

Discharge  
of surety on  
payment of  
full amount

(8) If the surety has actually and *bona fide* paid out of his own money or effects, or has become liable by virtue of a judgment recovered upon the security to pay an amount equal to the amount specified therein the security shall be deemed to be discharged and satisfied, and no other or further sum shall be recovered thereunder.

Staying of  
further  
proceedings  
against  
surety

(9) The court in which an action on the security is pending, upon proof of such payment or liability, and at any stage of the action, may in a summary manner prevent the recovery against the surety of any further sum than that specified in the security.

Security to  
extend to  
acts, or  
omissions of  
deputy or  
sheriff  
*pro tem*

(10) The security extends to the acts and omissions of the deputy of the sheriff, and, in case of a vacancy in the office of sheriff by death, resignation or otherwise, the security continues and is enforceable with respect to any act or omission of the deputy sheriff or of a sheriff *pro tempore* acting in pursuance of this Act or of any deputy sheriff appointed by such sheriff *pro tempore*, in pursuance of this Act. R.S.O. 1950, c. 359, s. 2.

Sheriff, etc.,  
not to trade

**3.** A sheriff or deputy sheriff shall not, directly or indirectly, keep a shop, or trade or traffic in goods, wares, or merchandise, either by wholesale or retail. R.S.O. 1950, c. 359, s. 3.

Sheriff, etc.,  
not to pur-  
chase at  
sales under  
execution

**4.** A sheriff, deputy sheriff, coroner, elisor, bailiff or constable shall not, directly or indirectly, purchase any goods or chattels, lands or tenements by him exposed to sale under legal process. R.S.O. 1950, c. 359, s. 4.

Misconduct  
of coroner,  
elisor,  
bailiff or  
constable

**5.** Every coroner, elisor, bailiff or constable entrusted with the execution of any writ, warrant or process who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the same may have issued, is guilty of an offence and on summary conviction is

liable to a fine of not more than \$200 and to imprisonment for a term of not more than six months, and shall answer in damages to any person aggrieved by the misconduct or false return. R.S.O. 1950, c. 359, s. 5.

**6.** If a debtor in execution escapes out of legal custody the sheriff, bailiff, or other person having the custody of the debtor, is liable only to an action for the damages sustained by the person at whose suit the debtor was taken or imprisoned, and is not liable to any other action in consequence of his escape. R.S.O. 1950, c. 359, s. 6.

**7.** A sheriff who wilfully makes any false return to any process directed to him and placed in his hands for execution, unless by consent of both parties to the same, is liable to forfeit his office. R.S.O. 1950, c. 359, s. 7.

**8.** Where an action is brought against a sheriff and a party thereto requires it to be tried by a jury the trial shall take place in such county or district as the court or a judge may direct. R.S.O. 1950, c. 359, s. 8.

**9.** Upon the delivery of a writ of summons at the office of a sheriff, to be served by him, he or his deputy or clerk, shall endorse thereon the time when it was so delivered, and in case the writ is not fully and completely served within ten days after the delivery, the plaintiff is entitled to receive it back, and the sheriff, deputy sheriff or clerk shall endorse thereon the time of the delivery back; and the cost of the mileage and service of the writ by a literate person afterwards, if the person to be served was at any time during the ten days within the county or district, shall be allowed in the taxation of costs, as if the service had been by the sheriff or his officer. R.S.O. 1950, c. 359, s. 9.

**10.** If the sheriff, being applied to, does not return the writ, after the expiration of the ten days, the plaintiff may issue a duplicate or concurrent writ on the *praecipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the sheriff by the plaintiff. R.S.O. 1950, c. 359, s. 10.

**11.—(1)** Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a sheriff, the sheriff if so requested, shall include in one certificate any number of names not exceeding fifteen in respect of which the certificates may be required in the same matter or investigation. R.S.O. 1950, c. 359, s. 11 (1); 1952, c. 99, s. 1 (1).

Sheriff to include certificates under R.S.O. 1960, c. 78

(2) The sheriff shall, in such certificate, include all certificates of proof of claims under *The Creditors' Relief Act* that may be in his hands affecting lands. R.S.O. 1950, c. 359, s. 11 (2).

Fees

(3) The maximum fees payable to a sheriff in respect of such certificate is \$6. R.S.O. 1950, c. 359, s. 11 (3); 1952, c. 99, s. 1 (2).

Office hours

**12.** Except on Saturdays and holidays when they shall be closed, every sheriff's office shall be kept open from 9.30 a.m. until 4.30 p.m. 1952, c. 99, s. 2.

Books to be kept

**13.—**(1) The sheriff shall keep in his office,

- (a) process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution, received by him, the court out of which the process issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto;
- (b) execution books in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution received by him, the court out of which the writ issued, the date of the receipt, the nature of the writ, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto, or what was done thereunder or therewith;
- (c) a cash book in which shall be entered all moneys received or paid by the sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at courts, moneys levied or collected under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in, or on account of which the same was received or paid;
- (d) a separate book in which shall be entered from day to day all fees and emoluments received by him by virtue of his office, and the several amounts disbursed by him in carrying on the work of his office;
- (e) such other books as the Lieutenant Governor in Council may require.



(2) The sheriff shall procure the books mentioned in this section and the cost thereof shall be paid by the county for which he is sheriff. R.S.O. 1950, c. 359, s. 13. To be paid by county

**14.** The sheriff shall, on or before the 15th day of January in every year, make, to the Inspector of Legal Offices, a return under oath of the aggregate amount of the fees and emoluments received by him, and of his disbursements, during the previous year, up to and inclusive of the 31st day of December. R.S.O. 1950, c. 359, s. 14. Return of fees to Inspector of Legal Offices

**15.**—(1) A sheriff and the county for which he is appointed may make an agreement for the payment to him by the county of a fixed annual sum in lieu of all fees that as sheriff he is entitled to be paid by the county. Agreement for fixed sum in lieu of fees

(2) Either party to an agreement under subsection 1 may terminate it on the 31st day of December in any year by giving the other party one month's notice in writing of the intention so to do. 1957, c. 113, s. 1. Termination of agreement

**16.** The sheriff shall quarterly and within twenty days after the expiration of each quarterly period, transmit to the Inspector of Legal Offices a just, true and faithful account, verified upon oath, of all fines, penalties, and forfeitures that he has been required to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied, and he shall pay over to the proper officer or to the person lawfully entitled to receive the same, the several sums collected by him, within twenty days next after the period within which the same have been collected. R.S.O. 1950, c. 359, s. 15; 1952, c. 99, s. 3. Sheriff to make quarterly returns of fines, etc.

**17.** The sheriff shall give his attendance upon the judges for the maintenance of good order in Her Majesty's courts, and for the doing and executing of all other things to the office of sheriff in such case appertaining. R.S.O. 1950, c. 359, s. 16. Duty of sheriff as regards sittings of courts

**18.** The sheriff has the appointment and control of the constables at the sittings of the High Court, the county court, the court of general sessions of the peace, and other courts at which the attendance of the sheriff is required. R.S.O. 1950, c. 359, s. 17. Appointment of constables

**19.** Where a sheriff is directed by the court to perform any service or do any act for which no fee is provided the sheriff may be allowed such fee as the court may think fit, and it shall be payable as the court may direct. R.S.O. 1950, c. 359, s. 18. Fees of sheriff when acting under order of court

Demanding  
fees on  
executions  
in advance

**20.** The sheriff may at the time of the delivery demand from any person delivering a process or attachment to him to be executed, the fees allowed to him by the tariff for receiving the writ or order and for warrant and return, and a reasonable sum for mileage and the fees and mileage so paid shall, if afterwards collected from the debtor, be repaid by the sheriff to the person who issued such process or attachment. R.S.O. 1950, c. 359, s. 19.

Actions for  
fees

**21.**—(1) After the expiration of one month from the service of his bill of costs, fees and expenses against a solicitor, the sheriff may serve the solicitor with a notice of an application to the Supreme Court or a judge thereof, or to a judge of a county or district court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill, and the amount claimed shall be stated in the notice.

Proceedings  
on return of  
notice

(2) On the return of the notice, the court or judge may, without reference, direct the payment to the sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the court or judge may order the bill and the demand thereon to be taxed by the proper officer, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the sheriff and the solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the court or judge making the reference shall restrain the bringing of any action pending the reference, and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any part thereof, in favour of either party, or may disallow any part thereof.

Execution  
for amount  
payable

(3) At the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may be, the party entitled to payment may sue out a writ of execution for the amount ordered or certified to be payable to him. R.S.O. 1950, c. 359, s. 20.

Deputy  
sheriff to  
continue  
office of  
sheriff in  
case of death  
or resignation

**22.**—(1) If the sheriff dies, or his resignation is accepted, or he is removed from office, the deputy sheriff shall continue the office of sheriff and execute the same and all things appertaining thereto in the name of the sheriff so dying, resigning or removed, until another sheriff has been appointed and sworn into office, and the deputy sheriff is answerable for the execution of the office during such interval as the sheriff would by law have been, if he had been living or had continued in office,

and the security given to the sheriff by the deputy sheriff, and his pledges, as well as the security furnished on behalf of the sheriff, remains and is a security to Her Majesty and to all persons whomsoever for the performance by the deputy sheriff of the duties of the office during such interval.

(2) If there is no deputy sheriff, the Crown attorney for the county or district, as the case may be, shall be the sheriff *pro tempore* until another person is appointed sheriff, and the Crown attorney on becoming sheriff *pro tempore* may appoint a deputy sheriff, and shall do and perform every other act, matter or thing necessary for the execution of the office.

Where there is no deputy sheriff

(3) During such interval the sheriff *pro tempore* is answerable for the execution of the office, as the sheriff would by law have been if he had been living or had continued in office, and any security given by or furnished on behalf of the sheriff remains and is a security to Her Majesty, and to all persons whomsoever, for the performance of the duties of the office by the sheriff *pro tempore* and his deputy. R.S.O. 1950, c. 359, s. 21, *amended*.

Temporary officer to be responsible

**23.** All books, accounts, records, papers, writs, warrants, process, moneys, and other matters and things in the possession or under the control of a sheriff by virtue of, or appertaining to his office, are the property of Her Majesty, and upon the death, resignation or removal from office of the sheriff they shall, by the person in whose possession or control they may happen to be or may come, be immediately handed over to and shall be taken possession of by the successor in office of the sheriff, or such person as the Lieutenant Governor in Council may appoint to receive them. R.S.O. 1950, c. 359, s. 22.

All books, etc., to be the property of the Government

**24.** No person, except the successor in office of the sheriff so dying, resigning or removed, or the person appointed by the Lieutenant Governor in Council as aforesaid, shall take, have or hold such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things, and any person having or holding any of them shall forthwith on demand deliver them over to the succeeding sheriff, or to the person appointed as aforesaid, and, upon default, is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50, besides costs, for every day's default, and is also liable to imprisonment for a term of not more than three months, unless the fine and costs are sooner paid. R.S.O. 1950, c. 359, s. 23.

No one but the succeeding sheriff to hold books, etc., on pain of fine and imprisonment

Proceedings  
on removal,  
etc., of  
sheriff

**25.**—(1) Upon the removal of a sheriff from office or upon his resignation and the appointment of his successor, the outgoing sheriff, or, in the event of the death of a sheriff, the deputy sheriff or sheriff *pro tempore* shall forthwith make out and deliver to the incoming sheriff a true and correct list and account, under his hand, of all writs and process in his hands not wholly executed by him, with all such particulars as are necessary to explain to the incoming sheriff the matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming sheriff all such writs and process, and all records, books and matters appertaining to the office of sheriff. R.S.O. 1950, c. 359, s. 24 (1); 1958, c. 100, s. 1 (1).

Duty of  
incoming  
sheriff

(2) The incoming sheriff shall thereupon sign and deliver a duplicate of the list and account to the outgoing sheriff, or to the deputy sheriff, or sheriff *pro tempore*, to whom the same is a good and sufficient discharge from the execution of the writs and process mentioned therein, without any writ of discharge or other writ whatsoever, and the incoming sheriff thereupon is fully and effectually charged with the execution and care of the writs and process mentioned in the list and account. R.S.O. 1950, c. 359, s. 24 (2); 1958, c. 100, s. 1 (2).

Penalty

(3) If the outgoing sheriff, or the deputy sheriff or the sheriff *pro tempore* refuses or neglects to make out, sign and deliver the list and account, and to hand over the writs and process in manner aforesaid, he is liable to any person aggrieved for the damages and costs sustained by such neglect or refusal. R.S.O. 1950, c. 359, s. 24 (3).

Sheriffs re-  
signing, etc.,  
may examine  
and inspect  
books, etc.

**26.** A sheriff, after resigning or being removed or in case of the death of a sheriff, his heirs, executors, or administrators have, at all times, the right, free of charge, to have access to, and to search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things that were in his possession before his death, resignation or removal, and that, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding sheriff or the then sheriff of the county or district. R.S.O. 1950, c. 359, s. 25.

Conveyances  
in case of  
death, etc.,  
of sheriff  
who has  
sold lands

**27.** In case of the death, resignation or removal from office of a sheriff, or of a deputy sheriff while there is no sheriff, or of a sheriff *pro tempore*, after he has made a sale of lands, but before he has made the deed of conveyance of the lands to the purchaser, and whether the sale was under an execution or for arrears of taxes the deed of conveyance shall be made to the purchaser by the sheriff, or by the deputy sheriff who is in

office acting as sheriff, or by the sheriff *pro tempore*, at the time when the deed of conveyance is made. R.S.O. 1950, c. 359, s. 26.

**28.** In case of the death, resignation or removal from office of a sheriff after action brought by him as sheriff, the action may be continued in the name of his successor, to whom the benefit of all securities given to the sheriff in his official capacity enure. R.S.O. 1950, c. 359, s. 27.

Continuation  
of actions  
after death.  
etc., of  
sheriff

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1892

1893

1894

1895

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1897

1898

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1900

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1930

1931

1932

1933

1934

1935

1936

1937

1938

1939

1940

1941

1942

1943

## CHAPTER 372

## The Short Forms of Conveyances Act

## 1. In this Act,

Interpre-  
tation

- (a) "land" includes freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;
- (b) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1950, c. 360, s. 1.

2. Where a deed of land made according to the form set forth in Schedule A, or any other deed of land expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the deed has the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the deed; but it is not necessary in any such deed to insert any such number. R.S.O. 1950, c. 360, s. 2.

Effect of  
deed made  
according to  
Schedule A  
and Col. 1  
of Sched-  
ule B

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "grantor" or "grantee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

Parties may  
substitute  
names for  
"grantor" or  
"grantee"

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine  
for masculine  
or plural for  
singular

(3) Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

and may  
introduce  
exceptions  
or qualifica-  
tions

(4) Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words at the end of form two of the first column, so as thereby to extend the words thereof to the acts of any addi-

and may  
add names or  
designations

tional person or persons, or class or classes of persons, or of all persons whomsoever, and in every such case the covenants 2, 3 and 4, or such of them as may be employed in the deed, shall be taken to extend to the acts of the person or persons, class or classes of persons so named. R.S.O. 1950, c. 360, s. 3.

Effect of  
deeds failing  
to take effect  
under this  
Act

4. Any deed or part of a deed that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1950, c. 360, s. 4.

## SCHEDULE A

### FORM OF DEED

This Indenture made the.....day of....., one thousand nine hundred and....., in pursuance of *The Short Forms of Conveyances Act*, between (*here insert names of parties and recitals, if any*), Witnesseth, that in consideration of.....now paid by the said (*grantee*) to the said (*grantor*) the receipt whereof is hereby by him acknowledged, he the said (*grantor*) doth grant unto the said (*grantee*) in fee simple (*or otherwise as the case may be*) all, etc., (*parcels*).....

(*Here insert covenants, or any other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1950, c. 360, Sched. A.

## SCHEDULE B

### COLUMN ONE

1. The said grantor covenants with the said grantee:

2. That he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor.

### COLUMN TWO

1. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors, covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:

2. That for and notwithstanding any act, deed, matter or thing by the said grantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said grantor, now hath in himself good right, full power and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said grantee, in manner aforesaid, and according to the true intent of these presents.



## COLUMN ONE

## COLUMN TWO

3. And that the said grantee shall have quiet possession of the said lands.

4. Free from all encumbrances.

5. And the said grantor covenants with the said grantee that he will execute such further assurances of the said lands as may be requisite.

3. And that it shall be lawful for the said grantee, his heirs, executors, administrators, successors and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever, of, from or by him the said grantor, or his heirs or successors, or any person claiming or to claim, by, from, under or in trust for him, them or any of them.

4. And that free and clear and freely and absolutely acquitted, exonerated and for ever discharged or otherwise by the said grantor or his heirs or successors well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and encumbrance whatsoever, made, executed, occasioned or suffered by the said grantor or his heirs or successors, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

5. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors, covenant, promise, and agree with and to the said grantee, his heirs, executors, administrators, successors and assigns, that he the said grantor, his heirs, executors, administrators and successors, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said grantee, his heirs, executors, administrators, successors or assigns, make, do, execute or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said grantee, his heirs, executors, administrators, successors and assigns, in manner aforesaid as by the said grantee, his heirs, executors, administrators, successors or assigns, his or their counsel in the law shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and

## COLUMN ONE

## COLUMN TWO

deeds of the person who shall be required to make or execute the same, and his heirs, executors, administrators or successors only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said grantor covenants with the said grantee that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said grantee.

6. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree with and to the said grantee, his heirs, executors, administrators, successors and assigns, that the said grantor and his heirs and successors shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said grantee, his heirs, executors, administrators, successors or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said grantee, his heirs, executors, administrators, successors and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said grantee, his heirs, executors, administrators, successors or assigns, or such person as he or they shall for that purpose direct and appoint.

7. And the said grantor covenants with the said grantee that he has done no act to encumber the said lands.

7. And the said grantor, for himself, his heirs, executors, administrators and successors doth hereby covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators, successors and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof are, is or shall or may be in anywise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.

8. And the said grantor releases to the said grantee all his claims upon the said lands.

8. And the said grantor hath released, remised and for ever quitted claim, and by these presents doth release, remise and for ever quit claim, unto the said grantee, his heirs, executors, administrators, successors and assigns, all, and all manner of right, title, interest, claim and demand whatsoever, in, to and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators, successors or assigns shall nor may, at any time hereafter, have claim, pretend to, challenge or demand the said

## COLUMN ONE

## COLUMN TWO

lands and premises or any part thereof, in any manner howsoever, but the said grantee, his heirs, executors, administrators, successors and assigns, and the same lands and premises shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said grantor might or could have upon him in respect of the said lands, or upon the said lands.

9. And the said wife of the said grantor hereby bars her dower in the said lands.

9. And the said wife of the said grantor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said grantee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said grantee, his heirs, executors, administrators, successors and assigns, all her dower and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to or out of the lands and premises hereby conveyed or intended so to be.

1960, c. 110, s. 1.

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## CHAPTER 373

## The Short Forms of Leases Act

1. Where a lease under seal, made according to the form set forth in Schedule A, or any other such lease expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the lease has the same effect as if it contained the form of words contained in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the lease; but it is not necessary in any such lease to insert any such number. R.S.O. 1950, c. 361, s. 1.

Effect of  
lease made  
according to  
Sched. A  
and Col. 1  
of Sched. B

2.—(1) Parties who use any of the forms in the first column of Schedule B, may substitute for the word “lessee” or “lessor” any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

Parties may  
substitute  
any name or  
designation

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine  
for masculine  
or plural for  
singular

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1950, c. 361, s. 2 (1-3).

and may  
introduce  
exceptions

(4) Where the premises demised are of freehold tenure the covenants 2 to 9 shall be taken to be made with and the proviso 12 to apply to the heirs and assigns of the lessor or the successors and assigns of the lessor, as the case may be, and where the premises demised are of leasehold tenure such covenants and proviso shall be taken to be made with and apply to the lessor, his executors, administrators, successors and assigns. R.S.O. 1950, c. 361, s. 2 (4); 1960, c. 111, s. 1 (1).

Application  
of covenants  
to heirs and  
assigns

(5) Where the word “lessor” occurs in the second column it includes, when the premises demised are of freehold tenure, the heirs, executors, administrators, successors and assigns of the lessor, and when the premises demised are of leasehold tenure it includes the executors, administrators, successors and

Interpre-  
tation

assigns of the lessor, and where the word "lessee" occurs in the second column it includes the executors, administrators, successors and assigns of the lessee. R.S.O. 1950, c. 361, s. 2 (5); 1960, c. 111, s. 1 (2).

Effect of  
leases failing  
to take effect  
under this  
Act

3. Any lease or part of a lease that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1950, c. 361, s. 3.

Covenants to  
run with  
land

4. Unless the contrary is expressly stated in the lease all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act run with the land demised, and bind the executors, administrators, successors and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B, when inserted in a lease, applies to a breach of either an affirmative or negative covenant. R.S.O. 1950, c. 361, s. 4; 1960, c. 111, s. 2.

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## SCHEDULE A

### FORM OF LEASE

This Indenture, made the.....day of....., one thousand nine hundred and....., in pursuance of *The Short Forms of Leases Act*, between....., of the first part, and....., of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the lessee, the lessor doth demise and lease unto the lessee, his executors, administrators, successors and assigns all that (*here insert a description of the premises with sufficient certainty*).

To have and to hold the said demised premises for and during the term of....., to be computed from the.....day of....., one thousand nine hundred and....., and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term unto the said lessor, his (*or their*) heirs, executors, administrators, successors or assigns, the sum of....., to be payable on the following days and times, that is to say (*on, etc.*), the first of such payments to become due and be made on the.....day of.....next, (*here insert covenants or any other provisions*). In witness whereof, etc.

R.S.O. 1950, c. 361, Sched. A; 1960, c. 111, s. 3.

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## SCHEDULE B

## COLUMN ONE

## COLUMN TWO

- |  |  |
|--|--|
| 1. The said lessee covenants with the said lessor:   | 1. And the said lessee doth hereby covenant with the said lessor in the manner following, that is to say:  |
| 2. To pay rent.  | 2. That he, the said lessee, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.  |
| 3. And to pay taxes, except for local improvements.  | 3. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.   |
| 4. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.  | 4. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted.  |
| 5. And to keep up fences.  | 5. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year.   |
| 6. And not to cut down timber.   | 6. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees.   |
| 7. And that the said lessor may enter and view state of repair; and that the said lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted. | 7. And that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted. |

## COLUMN ONE

## COLUMN TWO

8. And will not assign or sub-let without leave.

9. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, that the lessee may remove his fixtures.

11. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

12. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

8. And also that the lessee shall not, nor will during the said term, assign, transfer or set over or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor first had and obtained.

9. And further, that the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised with the appurtenances, together with all the buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.

11. Provided, and it is hereby expressly agreed, that in case the premises hereby demised or any part thereof shall, at any time during the said term, be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.

12. Provided, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, then and in either of such cases it shall be lawful for the lessor at any time thereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his former estate; anything hereinafter contained to the contrary notwithstanding.



## COLUMN ONE

## COLUMN TWO

13. The said lessor covenants with the said lessee for quiet enjoyment.

13. And the lessor doth hereby covenant with the lessee, that he paying the rent hereby reserved and performing the covenants hereinbefore on his part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, or any other person or persons lawfully claiming by, from or under him.

R.S.O. 1950, c. 361, Sched. B; 1960, c. 111, s. 4.

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## CHAPTER 374

## The Short Forms of Mortgages Act

## 1. In this Act,

Interpretation

- (a) "land" includes freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;
- (b) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1950, c. 362, s. 1.

2.—(1) Where a mortgage of land, made according to the form set forth in Schedule A, or any other mortgage of land expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, the mortgage has the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the mortgage; but it is not necessary in any such mortgage to insert any such number.

Effect of mortgage made according to Sched. A and Col. 1 of Sched. B

(2) Where a blank occurs in any of the forms in Column Two the form shall be read as if it were filled in with the words that supply the place of the blank in the corresponding form in Column One. R.S.O. 1950, c. 362, s. 2.

Where blank occurs

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "mortgagor", of "mortgagee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding forms in the second column.

Parties may substitute names or designations

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and feminine for masculine gender or plural for singular

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1950, c. 362, s. 3.

and may introduce exceptions or qualifications

Mortgages  
not taking  
effect under  
this Act, how  
far valid

4. Any such mortgage, or part of such mortgage that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1950, c. 362, s. 4.

## SCHEDULE A

### FORM OF MORTGAGE

This Indenture, made the.....day of....., one thousand nine hundred and....., in pursuance of *The Short Forms of Mortgages Act*, between (*here insert the names of parties and recitals, if any*). Witnesseth, that in consideration of.....of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all (*parcels*).

(*Here insert provisoes, covenants or other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1950, c. 362, Sched. A.

## SCHEDULE B

### COLUMN ONE

1. And the said wife of the said mortgagor hereby bars her dower in the said lands.

2. Provided this mortgage to be void on payment of ..... of lawful money of Canada, with interest at ..... per cent as follows: ..... and taxes and performance of statute labour.

### COLUMN TWO

1. And the said wife of the said mortgagor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said mortgagee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all her dower, and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.

2. Provided always and these presents are upon this express condition that if the said mortgagor, his heirs, executors, administrators, successors or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns the just and full sum of (*amount of principal money*) of lawful money of Canada with interest thereon at the rate of (*rate of interest*) per cent per annum on the day and time and in the manner following, that is to say (*terms of payment of principal and interest*), without any deduction or abatement, and do and shall also pay any taxes, rates, levies, charges or assessments upon the said lands or in respect thereof no matter by whom

## COLUMN ONE

## COLUMN TWO

or by what authority imposed which the said mortgagee, his executors, administrators, successors or assigns shall have paid or shall have been rendered liable to pay, and do and shall also pay all such other sums as the said mortgagee, his executors, administrators, successors or assigns may be entitled to by virtue of these presents, then these presents and everything in the same shall be absolutely null and void; but nothing in this proviso or these presents shall make the mortgagor, his heirs, executors, administrators, successors or assigns liable to pay to the mortgagee, his executors, administrators, successors or assigns any tax, rate or charge imposed upon the mortgagee, his heirs, executors, administrators, successors or assigns in respect of the income derived by him or them in respect of the mortgage money or in respect of the devolution of the interest of the said mortgagee in the said lands or mortgage money.

3. The said mortgagor covenants with the said mortgagee:

3. And the said mortgagor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:

4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.

4. That the said mortgagor, his heirs, executors, administrators and successors or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

5. That the mortgagor has a good title in fee simple to the said lands.

5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances and of and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisos or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, encumber or defeat the same.

6. And that he has the right to convey the said

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore

## COLUMN ONE

## COLUMN TWO

lands to the said mortgagee.

mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And that on default the mortgagee shall have quiet possession of the said lands.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, successors and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators, successors or assigns or any other person or persons whomsoever.

8. Free from all encumbrances.

8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, executions and recognizances, and of and from all manner of other charges or encumbrances whatsoever.

9. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs, executors, administrators, successors and assigns and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, his heirs, executors, administrators, successors or assigns shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the

## COLUMN ONE

## COLUMN TWO

said mortgagee, his heirs, executors, administrators, successors and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators, successors and assigns, as by the said mortgagee, his heirs, executors, administrators, successors or assigns, or his or their counsel learned in the law shall or may be lawfully and reasonably devised, advised, or required, but so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

10. And that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

10. And also, that the said mortgagor, his heirs, executors, administrators, successors and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee, his heirs, executors, administrators, successors or assigns at any trial or hearing in any action or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators, successors and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators, successors and assigns true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators, successors and assigns.

11. And that the said mortgagor has done no act to encumber the said lands.

11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.

12. And that the said mortgagor will insure the build-

12. And also that the said mortgagor or his heirs, executors, administrators, successors or assigns shall and will forthwith insure unless already insured, and during the continuance of this security

## COLUMN ONE

## COLUMN TWO

ings on the said  
lands to the  
amount of not less  
than  
of lawful money of  
Canada.

keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators, successors or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of.....of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators, successors or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators, successors or assigns, the policy or policies of insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators, successors or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

13. And the said  
mortgagor doth re-  
lease to the said  
mortgagee all his  
claims upon the  
said lands subject  
to the said proviso.

13. And the said mortgagor hath released, remised and for ever quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof, so as that neither the said mortgagor, his heirs, executors, administrators, successors or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators, successors or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs, successors or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators, successors or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided,  
that the said mort-  
gagee on default of  
payment for

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in any payment of the said money or interest or any part of either of the same,



## COLUMN ONE

may on  
notice enter  
on and lease or sell  
the said lands.

## COLUMN TWO

according to the true intent and meaning of these presents, and of the proviso in that behalf herein-before contained, and.....shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, successors or assigns, after giving written notice to the said mortgagor, his heirs, executors, administrators, successors or assigns, of his or their intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than.....previous, without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators, successors or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he or they shall think fit, and also to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction or private contract, or partly by public auction and partly by private contract, as to him or them shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his or their heirs, successors or assigns, or as he or they shall direct and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors, administrators, successors or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, successors or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators, successors or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators, successors or assigns, shall bear, sustain, or be put to for taxes, rents,

## COLUMN ONE

## COLUMN TWO

insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators, successors or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators, successors or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators, successors or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators, successors or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and encumbrance whatsoever by the said mortgagee, his heirs, executors, administrators, successors or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagee, his heirs, executors, administrators, successors or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators, successors and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.

15. Provided that the mortgagee may distrain for arrears of interest.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators, successors or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time,

## COLUMN ONE

## COLUMN TWO

be, or remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.

16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators, successors or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the Supreme Court, relief therein could be obtained be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

17. Provided that until default of payment the mortgagor shall have quiet possession of the said lands.

17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, that until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor, his heirs, executors, administrators, successors and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors, administrators, successors or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.



## CHAPTER 375

## The Silicosis Act

**1.** In this Act,Interpre-  
tation

- (a) "Minister" means the member of the Executive Council to whom the administration of this Act may be assigned by the Lieutenant Governor in Council;
- (b) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 363, s. 1.

**2.** Subject to section 5 and the regulations, no person shall be employed in an industrial process involving a silica exposure as defined by the regulations unless he is the holder of a health certificate issued under the regulations. R.S.O. 1950, c. 363, s. 2.

**3.** The Minister may require any employee engaged in any occupation involving a silica exposure as defined by the regulations to take a medical examination at any time. R.S.O. 1950, c. 363, s. 3.

**4.** The fee prescribed by the regulations for the medical examination shall be paid by the employer in the manner prescribed by the regulations. R.S.O. 1950, c. 363, s. 4.

**5.** Where in the opinion of the Minister the circumstances warrant such action, he may exempt in whole or in part from the provisions of this Act and the regulations any industrial process involving a silica exposure. R.S.O. 1950, c. 363, s. 5.

**6.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1950, c. 363, s. 6.

**7.—(1)** The Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) defining silica exposure and prescribing medical examinations of employees engaged in industrial processes involving silica exposure and prescribing the fees to be paid for and the form of reports to be made in connection with such examination; and

- (b) providing for the issue, renewal, suspension and cancellation of health certificates to employees engaged in industrial processes involving a silica exposure and prescribing the form thereof and the conditions of issuing and the custody and use of such certificates.

Application  
of regula-  
tions

- (2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry. R.S.O. 1950, c. 363, s. 7.
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## CHAPTER 376

## The Snow Roads and Fences Act

## PART I

## SNOW ROADS

**1.** In this Act, "vehicle" means a vehicle drawn by one or more horses or other animals or propelled by any motive power. R.S.O. 1950, c. 366, s. 1. Interpretation

**2.** The council of a county may provide, by by-law, for the making of a double track during the season of sleighing in each and every year upon such leading highways within the county, whether or not county roads, as the council deems advisable. R.S.O. 1950, c. 366, s. 2. Powers of county council

**3.** Where a county council has passed such a by-law, the double track shall be so made that one vehicle may pass another without being obliged to turn out when meeting. R.S.O. 1950, c. 366, s. 3. Nature of tracks

**4.** Every vehicle shall travel in the right-hand track, and any person driving or propelling his vehicle in the wrong track shall leave it when he meets a vehicle entitled to use such track. R.S.O. 1950, c. 366, s. 4. Right of road

**5.—(1)** A county council may also provide by by-law that pathmasters appointed by township councils shall cause the highways on which double tracks are to be made to be kept open for travel within their respective municipalities, or, if there are no such pathmasters available, may appoint roadmasters to perform that duty. Duties and powers of pathmasters or roadmasters

**(2)** Such pathmasters or roadmasters have power to call out persons liable to perform statute labour to assist in keeping open such highways within their respective municipalities, and may give to the persons employed in so doing certificates of having performed statute labour to the amount of the days work done, and such work shall be allowed for in the next season's statute labour. Calling out persons liable to perform statute labour

**(3)** The county council may also provide for the application by the township councils of so much of the commutation of statute labour fund as may be necessary for the keeping open of such highways within their respective municipalities. R.S.O. 1950, c. 366, s. 5. Application of commutation of statute labour

County  
acting on  
default by  
township

R.S.O. 1960,  
c. 23

Offence for  
persons  
refusing to  
work

Offence for  
refusing to  
turn out of  
wrong track

How Act  
enforceable  
in townships  
in districts

**6.** If a township council neglects or refuses to keep such highways open for travel as provided by section 5, the county council may do so, and may impose upon the township so in default a rate sufficient for that purpose, and the rate shall be levied and collected in the manner provided by *The Assessment Act* for the collection of county rates. R.S.O. 1950, c. 366, s. 6.

**7.** Any person liable to perform statute labour who refuses or neglects to turn out and work under any pathmaster or roadmaster who warns him out for that purpose, under the authority of this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20. R.S.O. 1950, c. 366, s. 7.

**8.** Any person travelling with his vehicle in the wrong track and refusing or neglecting to leave the track when met by a person who is rightfully travelling therein with his vehicle is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20. R.S.O. 1950, c. 366, s. 8.

**9.** All the rights and powers conferred by this Act upon councils of counties may be exercised by the councils of townships in districts without county organization. R.S.O. 1950, c. 366, s. 9.

## PART II

### SNOW FENCES

Powers of  
councils to  
require  
removal of  
fences

Making  
compensation  
therefor

Power in  
case of  
neglect or  
refusal by  
owner or  
occupant

**10.—(1)** The council of any municipality may pass by-laws requiring the owners or occupants of land bordering upon a public highway to take down, alter or remove any fence that causes an accumulation of snow or drift so as to impede or obstruct travel.

**(2)** The council shall make such compensation to the owners or occupants for the taking down, alteration or removal of the fence and for the construction in lieu thereof of some other description of fence, approved of by the council, as may be mutually agreed upon, and in default of agreement the compensation shall be determined by arbitration, and three fence-viewers appointed by the council shall be the arbitrators. R.S.O. 1950, c. 366, s. 10.

**11.—(1)** If the owner or occupant refuses or neglects to take down, alter or remove the fence as required by the council, the council, after the expiration of two months from the time the compensation has been agreed upon or determined by arbitration, may take down, alter or remove the fence, and



may construct the fence that has been approved of by the council, and the amount of all costs and charges thereby incurred by the council, over and above the amount of compensation, may be recovered from the owner or occupant by action in any division court having jurisdiction in the locality, and the amount of the judgment, if not sooner paid, shall be placed by the clerk of the municipality upon the collector's roll against the land upon or along the boundaries of which the fence is situate, and shall be collected as other taxes.

(2) Where an occupant, other than the owner, is required to pay such sum, or any part thereof, he may deduct it, and any costs paid by him, from the rent payable by him, or may otherwise recover it unless he has agreed with the landlord to pay it. Right of occupant to deduct amount paid from rent

(3) The arbitrators shall examine the premises and shall, if required, hear evidence. Duties of arbitrators

(4) The arbitrators are entitled to \$2 a day, which shall be paid by the corporation of the municipality if the amount of the award exceeds the amount offered by the corporation, otherwise by the owner or occupant. Fees

(5) The award shall be filed in the office of the clerk of the municipality, and an appeal lies therefrom to the judge of the county or district court of the county or district. Appeal

(6) The provisions of *The Line Fences Act mutatis mutandis* apply to the appeal. R.S.O. 1950, c. 366, s. 11. R.S.O. 1960, c. 216 to apply

**12.—**(1) Every such council may, on or after the 15th day of November and before the 31st day of March following, enter into and upon any lands of Her Majesty, or of any corporation or person, situate within the municipality and lying along any public highway in or adjoining any such municipality, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as may be suffered by the owner or occupant of the land so entered upon, the amount thereof to be ascertained, if not mutually agreed upon, by arbitration as provided in section 10. Power to enter on lands

(2) The snow fences so erected shall be removed on or before the 1st day of April following. Removal

(3) When weather conditions do not permit the removal of snow fences on or before the 1st day of April, the council may by by-law extend the time during which snow fences may be maintained and the date by which they shall be removed to a date fixed by the by-law. Extension of time for maintenance and removal

## Offence

(4) Any person who hinders or interferes with the erection of snow fences under the provisions of this Act, or who takes down, removes or otherwise interferes with snow fences that have been erected hereunder is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$50. R.S.O. 1950, c. 366, s. 12.

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## CHAPTER 377

**The Soldiers' Aid Commission Act**

1. The commission first established by order in council dated the 10th day of November, 1915, "to take care of and to find employment for members of the Canadian Expeditionary Force who return to Canada during the period of the War, and to assist, advise and co-operate with The Military Hospitals Commission, and with all Provincial or local committees or organizations to attain the aforesaid objects, and to do all things which may be incidental and ancillary to the foregoing", is continued as a body corporate and politic under the name of the "Soldiers' Aid Commission", herein called the "Commission". R.S.O. 1950, c. 367, s. 1.

Soldiers'  
Aid Com-  
mission  
continued

2. The Lieutenant Governor in Council may add such persons from time to time as members of the Commission as he deems advisable or may appoint a member in place of any member dying or retiring or becoming incapable of acting. R.S.C. 1950, c. 367, s. 2.

Adding  
members to  
Commission

3. The members of the Commission shall serve without remuneration, but may be paid their travelling expenses and other necessary disbursements as part of the expenses of the Commission, and the receiving of such expenses and disbursements by any member of the Commission does not render him ineligible as a member of the Assembly nor disqualify nor render him liable to any penalty for sitting and voting therein, anything in *The Legislative Assembly Act* to the contrary notwithstanding. R.S.O. 1950, c. 367, s. 3.

Services  
to be  
honorary

R.S.O. 1960,  
c. 208

4. The Commission may establish or arrange for the establishment of branches of the Commission in the various municipalities in the Province and appoint a supervising commissioner and such officers, clerks, servants and agents as are deemed necessary and expedient for carrying out the work of the Commission, and the salaries, wages, fees or other remuneration payable to such officers, clerks, servants and agents, and all other costs, charges and expenses incurred by the Commission are payable out of the moneys that are appropriated from time to time by the Legislature for the purposes of the Commission. R.S.O. 1950, c. 367, s. 4.

Branches,  
office staff

Execution  
of documents

5. A conveyance, document or other instrument executed under the hand of the chairman and the supervising commissioner and the seal of the Commission shall be deemed sufficiently executed to bind the Commission for all purposes. R.S.O. 1950, c. 367, s. 5.

Powers of  
Commission

6.—(1) Notwithstanding anything in the order in council of the 10th day of November, 1915, the Commission may exercise the like powers with respect to, and may grant the same assistance to members of Her Majesty's Imperial forces or the forces of any of the allies who, as reservists, and while resident in Canada, were called upon to serve in the Imperial forces or the forces of any of the allies, or who left Canada for the purpose of enlisting and did enlist in the Imperial forces or the forces of any of the allies to serve therein during World War I, as the Commission may grant to members of the Canadian Expeditionary Forces under the terms of the said order in council, and the like assistance may be granted to any person who, after enlistment in Canada for service in the said war, and before going overseas, was discharged on account of wounds, injury or disease incurred or contracted while on active service.

Extent of  
powers of  
Commission

(2) Notwithstanding anything in the order in council of the 10th day of November, 1915, the Commission has and may exercise the like powers and perform the like services with respect to any of the classes of persons mentioned in subsection 1 who returned to Ontario after the said war as it may with respect to those who returned during the war.

Powers of  
Commission  
extended

(3) Notwithstanding anything in the order in council of the 10th day of November, 1915, the Commission has and may exercise the like powers and may grant the same assistance to persons who served in the naval, military or air forces of Canada or the British Empire or any part or ally thereof in World War II as the Commission may grant to members of the Canadian Expeditionary Forces under the terms of the said order in council. R.S.O. 1950, c. 367, s. 6.

Real  
property

7.—(1) The Commission may buy, sell, lease, hold or otherwise deal in real property for the purposes of the Commission.

Acquiring  
lands for  
cemetery  
purposes

(2) The Commission may acquire lands by purchase or expropriation or otherwise for the purposes of a cemetery for the burial of persons belonging to any of the classes mentioned in section 6 and with respect to the cemetery possesses all the powers of an owner of a cemetery under *The Cemeteries Act*. R.S.O. 1950, c. 367, s. 7.

R.S.O. 1960,  
c. 47

**8.—**(1) The Commission has and shall be deemed to have had since the date of its establishment, power to receive, administer and dispose of gifts, devises and bequests for the benefit of persons belonging to any of the classes mentioned in section 6, or for the benefit, as a class, of the wives, widows, children and dependent relatives of any such person belonging to any of the classes mentioned in section 6, and, without limiting the generality of the foregoing, shall be deemed to include the right to receive, hold, administer and dispose of lands so devised.

Commission authorized to receive and administer gifts, etc.

(2) Where by the will of any person dying before or after the passing of this Act, a devise or bequest is made to or for the benefit of any class of persons mentioned in section 6, or for any object within the powers of the Commission, or for any like purpose, and the will does not specify the particular person, society or institution that is to receive the devise or bequest, or if the devise or bequest is or may be held to be void for uncertainty as to the persons entitled to receive it, or as to the object to which it may be applied, then in any such case the Commission is the beneficiary and is entitled to receive, administer and dispose of the devise or bequest in such manner as the Commission deems expedient.

Where bequest would otherwise be void for uncertainty

(3) Subsection 2 applies and takes effect notwithstanding that by the terms of the will the executor or trustee thereunder is directed to distribute the devise or bequest in the discretion of the executor or trustee. R.S.O. 1950, c. 367, s. 8.

Application of subs. 2

**9.** The Commission has and shall be deemed to have had since the date of its establishment, power to grant assistance, financial or otherwise, to the widows of the classes mentioned in section 4 of *The Soldiers' Aid Commission Act, 1916*, who have remained unmarried or who have remarried and, in the opinion of the Commission, need help, and all such assistance, financial or otherwise, heretofore given by the Commission is declared to be legal and valid for all intents and purposes. R.S.O. 1950, c. 367, s. 9.

Aid to widows

1916, c. 3

**10.** With respect to the child of any person who served with Her Majesty's forces or the forces of any of the allies of Her Majesty in World War I, the Commission has and may exercise and perform all the rights, powers and duties of a children's aid society under *The Child Welfare Act*. R.S.O. 1950, c. 367, s. 10.

Powers of Commission as to children of soldiers

R.S.O. 1960, c. 53

**11.** The Commission may establish children's shelters or homes for children coming under its care by virtue of this Act and may apply any of the funds of the Commission for such purpose. R.S.O. 1950, c. 367, s. 11.

Establishing children's shelters

Agreement  
to accept  
custody of  
child

**12.** The Commission may enter into an agreement with any person who served with Her Majesty's forces or the forces of any of the allies of Her Majesty in World War I, or who was the wife or husband of a person so serving before the cessation of hostilities, whereby the Commission may accept the custody of any child or children of the applicant upon being satisfied that the circumstances of the applicant are such that the applicant is unable to properly maintain and care for the child or children. R.S.O. 1950, c. 367, s. 12.

Arrange-  
ments for  
technical  
instruction  
for incapa-  
citated  
soldiers

**13.** The Commission acting as a central provincial committee and a branch sub-committee of The Military Hospitals Commission, may enter into arrangements with the Department of Education, or with any educational authority or institution, for providing instruction of any kind, including technical and industrial instruction for those of the classes of persons mentioned in section 6, who, as a result of wounds, disease or other injury sustained during the period of enlistment, are unable to pursue their former calling or occupation, and for such other training, instruction and assistance as the Commission deems advisable. R.S.O. 1950, c. 367, s. 13.

Further  
powers and  
duties may  
be conferred  
and  
imposed

**14.** The Lieutenant Governor in Council may confer such further powers and impose such further duties upon the Commission with respect to soldiers who returned to Ontario after World War I, with a view to securing their well-being, as is deemed advisable. R.S.O. 1950, c. 367, s. 14.

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## CHAPTER 378

## The Solicitors Act

## 1. In this Act,

Interpre-  
tation

- (a) "rules of the Society" means the rules, regulations and by-laws made by the benchers under *The Law Society Act*; R.S.O. 1960.  
c. 207
- (b) "Society" means The Law Society of Upper Canada. R.S.O. 1950, c. 368, s. 1.

2. Every solicitor is an officer of the Supreme Court, and that court or a judge thereof may exercise the same jurisdiction in respect of solicitors as a superior court or a judge thereof before the 22nd day of August, 1881, might have exercised in respect of any solicitor or attorney admitted to practise therein. Subject to  
control of  
court R.S.O. 1950, c. 368, s. 2.

3. The benchers of the Society may make such rules, regulations or by-laws as they deem necessary and proper touching the admission of persons, being British subjects, who may be admitted and enrolled as solicitors, and such persons and no others are entitled to practise as solicitors in Ontario. Benchen-  
ers may make  
rules as to  
admission,  
etc., of  
solicitors R.S.O. 1950, c. 368, s. 3.

4.—(1) Any person who has been duly called to the bar of Ontario and who has been in actual practice for ten years or more before filing his application for a certificate of fitness is entitled to such certificate without any examination and may be admitted and enrolled as a solicitor. Admission  
of barristers  
as solicitors  
after 10 years  
at bar

(2) Any person who has been called to the bar of Ontario and who has been in actual practice for five or more years but less than ten years before filing his application for a certificate of fitness is entitled to such certificate on passing such examination as is prescribed by the Society for such cases and may be admitted and enrolled as a solicitor. Idem, after  
5 years  
at bar

(3) Notice of the intention of the candidate to apply for a certificate of fitness under this section shall be in writing signed by the applicant and shall be given by him to the secretary of the Society at least fourteen days before the next meeting of convocation at which the candidate seeks admission, and the application for the certificate shall be signed by a barrister practising in the county or district in which the Notice of  
application  
for certificate  
of fitness

candidate resides, who shall certify that the candidate is in his opinion a fit and proper person to be admitted and enrolled as a solicitor.

**Fees**

(4) Every such barrister, before obtaining the certificate, shall pay such fees only as are payable by a student-at-law in ordinary cases on being admitted as a solicitor. R.S.O. 1950, c. 368, s. 4.

**Barristers of Quebec who have been called to the bar of Ontario**

5. A person who has been called to the bar of Ontario under any provision heretofore or hereafter made for the admission of practitioners in law or students from the Province of Quebec is entitled to be admitted as a solicitor upon payment of the usual fees. R.S.O. 1950, c. 368, s. 5.

**Solicitors must be admitted and enrolled**

6.—(1) Unless admitted and enrolled and duly qualified to act as a solicitor, no person shall act as a solicitor in any court of civil or criminal jurisdiction or before any justice of the peace, or as such sue out any writ or process or commence, carry on or defend any action or proceeding in the name of any other person or in his own name, or hold himself out as or represent himself to be a solicitor, or practise as a solicitor, or for gain or reward act as a solicitor.

**Offence**

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and liable to a penalty of not more than \$100 for a first offence and not more than \$200 for a second or subsequent offence.

**Recovery of penalties  
R.S.O. 1960,  
c. 387**

(3) The penalties imposed by this section may be recovered in the manner provided by *The Summary Convictions Act*, or upon application by the Society to a judge of the Supreme Court by originating notice.

**Place of trial**

(4) Where proceedings are taken by originating notice under this section, the matter shall be heard in the county or district in which the person against whom the proceedings are taken resides.

**Proceedings by originating notice**

(5) Where proceedings are taken by originating notice under this section, the rules of practice of the Supreme Court apply provided that the judge upon finding that a person has contravened any of the provisions of subsection 1 may in addition to ordering payment of the penalties, make an order enjoining him from practising as a solicitor, and any order made under this section may be enforced in the same manner as any other order or judgment of the Supreme Court and may be varied or discharged upon an application made by originating notice.

**Penalties payable to Treasurer**

(6) The penalties recovered under this section shall be paid to the Treasurer of Ontario. R.S.O. 1950, c. 368, s. 6.



7. If a person, unless himself a party to the proceeding, commences, prosecutes or defends in his own name, or that of any other person, any action or proceeding without having been admitted and enrolled as hereinafter provided, he is incapable of recovering any fee, reward or disbursements on account thereof, and is guilty of a contempt of the court in which such proceeding was commenced, carried on or defended, and is punishable accordingly. R.S.O. 1950, c. 368, s. 7.

Penalty on persons practising without being admitted as solicitors

8. Subject to the rules of the Society, the following enactments apply to the service of students-at-law:

Students-at-law

1. A solicitor may have under contract in writing four students at one time and no more, and no solicitor shall have any student so bound after he has discontinued practice as a solicitor, and the service by a student to a solicitor under any such circumstances shall be deemed not to be good service under the articles.
2. If a solicitor before the determination of the contract of service becomes bankrupt or takes the benefit of any Act for the relief of insolvent debtors, or has been imprisoned for twenty-one or more days, the Supreme Court, upon the application of the student, may order that the contract be discharged or be assigned to such person upon such terms and in such manner as the court deems proper.
3. If a solicitor to whom a student has been so bound dies before the expiration of the term for which the student became bound, or if he discontinues practice as a solicitor, or if the contract is by the consent of the parties cancelled, or if the student is legally discharged before the expiration of the term by an order of the court, the student may be bound by another contract in writing to serve as student to any other practising solicitor during the residue of the term, and due service under such subsequent contract is sufficient. R.S.O. 1950, c. 368, s. 8.

Practising solicitor may have four articulated students

Court may order articles to be discharged or assigned in certain cases

Case of death, etc., of solicitor to whom student articulated

9.—(1) Subject to the rules of the Society, no student shall be admitted and enrolled as a solicitor unless,

Provisions to be complied with before admission

- (a) during the time specified in his contract of service he has duly served thereunder, and, except while attending the courses of lectures at the law school and undergoing examinations as prescribed by the rules of the Society, he has been during the whole of such term of service actually employed in the proper

practice of a solicitor by the solicitor to whom he has been bound at the place where such solicitor has continued to reside, during such term or with his consent by the professional agent of the solicitor in Toronto; and

- (b) he has been examined and sworn in the manner hereinafter directed; and
- (c) at least fourteen days next before the first day of the term in which he seeks admission, he has left with the secretary of the Society his contract of service and any assignment thereof and the affidavits of the execution of the same with his affidavit of due service thereunder, and a certificate of the solicitor to whom he was bound or his Toronto agent of such due service, and in the case of a person who has been called to the bar or taken a degree as hereinbefore mentioned, a certificate of his having been so called or taken such degree or a duly certified copy of such certificate.

Affidavits to be delivered to the Society

(2) The affidavits shall be in the form prescribed by the Society and shall be delivered by the applicant to the Society upon his application to be examined.

Where contract, etc., cannot be produced

(3) If the contract of service, assignment, if any, affidavits and certificate of due service, or any of them, cannot be produced, the Society, on application by a petition verified by affidavit to be left with the secretary at least fourteen days before the first day of the term on which the applicant seeks admission, and on being satisfied of such fact may, in its discretion, dispense with the production of the contract, assignment, affidavits and certificate of due service, or any of them, and may, notwithstanding such non-production, grant the certificate of fitness.

Time on military service may be allowed

(4) The benchers may allow a student, as part of his term of service, any time during which he was engaged on active military service. R.S.O. 1950, c. 368, s. 9.

Requirements

# **10. Subject to the rules of the Society,**

- (a) where the benchers require that students pass a preliminary examination, the term of service under articles to entitle a student to be admitted as a solicitor shall date only from the passing of such examination or his admission into the Society as a student-at-law;
- (b) no candidate for admission being a student-at-law or articled clerk who has served under articles for

the prescribed period shall be admitted or enrolled as a solicitor unless he has complied with the regulations of the Society as to the attendance at lectures and the passing of examinations. R.S.O. 1950, c. 368, s. 10.

**11.**—(1) Subject to the rules of the Society, no candidate for admission not being a student-at-law or articled clerk who has served under articles for the prescribed period shall be admitted, Provisions respecting special cases

- (a) unless he publishes in *The Ontario Gazette* for at least two months previously to the first day of the term in which he seeks admission notice of his intention to apply for admission; nor
- (b) except in the case of a person who has been called to the bar of Ontario, unless he, at least fourteen days after the meeting of convocation, leaves with the secretary of the Society,
  - (i) in the case of a barrister, sufficient evidence to the satisfaction of the benchers of his call to the bar and an affidavit to their satisfaction stating whether any application is made or is pending to disbar him, disqualify him for misconduct, or otherwise from practising at the bar,
  - (ii) in the case of an attorney, solicitor or writer to the signet, sufficient evidence to the satisfaction of the benchers of his admission and an affidavit of the candidate to their satisfaction stating whether any application has been made or is pending to strike him off the roll or disqualify him for misconduct or otherwise from practising as a solicitor,
  - (iii) in every case testimonials of good character and conduct to the satisfaction of the benchers.

(2) The affidavit shall be made within three months of the meeting of convocation during which the application is made. R.S.O. 1950, c. 368, s. 11. Date of affidavit

**12.** The benchers, upon proof to their satisfaction of the requirements of this Act having been complied with, shall examine and inquire by such ways and means as they think proper touching the fitness and capacity of any candidate for admission as a solicitor, and if satisfied by such examination or by the certificate of the examiners mentioned in section The Society to examine into the fitness and capacity of candidates for admission as solicitors

R.S.O. 1960,  
c. 207

39 of *The Law Society Act* that the candidate is duly qualified, fit and competent to act as a solicitor, the Society shall give a certificate under its corporate seal of his due service and of his fitness and capacity and of his having duly complied with the requirements of this Act and that he is in all respects qualified to be admitted as a solicitor. R.S.O. 1950, c. 368, s. 12.

Admission  
and enrol-  
ment

**13.**—(1) Upon production to the Supreme Court of such certificate of fitness, the presiding judge shall endorse his fiat of admission upon it, and thereupon the oath of allegiance and the oath of office having been administered in open court to the person named in the certificate the court may cause him to be admitted and his name to be enrolled as a solicitor.

Certificate of  
admission

(2) A certificate of admission shall be signed by one of the registrars of the Supreme Court, and the certificate of fitness shall be filed in the proper office of the Supreme Court.

Oath

(3) The oath of office is as follows:

I, *A.B.*, do swear (*or solemnly affirm as the case may be*) that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability. So help me God.

R.S.O. 1950, c. 368, s. 13.

Crown  
fee

**14.** The only fee payable to the Crown under this Act is a fee of \$5.50 for the fiat, admission, oath and certificate. R.S.O. 1950, c. 368, s. 14.

Names of  
those admit-  
ted to be  
delivered to  
Society  
monthly

**15.** The officer of the Supreme Court who has the custody of the roll of solicitors shall on the first day of every month deliver to the secretary of the Society at its office in Osgoode Hall, certified under his hand and the seal of the Supreme Court, a copy of so much of the roll as contains the names of solicitors admitted and enrolled during the preceding month. R.S.O. 1950, c. 368, s. 15.

Secretary  
to enter  
certified  
copies of  
roll in a  
book

**16.** The secretary shall enter all such certified copies in a book to be kept in his office for that purpose, affixing to each name a number following in consecutive order the numbers affixed to the names previously entered. R.S.O. 1950, c. 368, s. 16.

Secretary to  
furnish list  
of solicitors  
to Registrar

**17.** The secretary shall, in another book to be kept in his office for that purpose, enter all the names contained in the copies so transmitted to him, alphabetically arranged, with a reference to the number of each name on the roll, and shall, annually on or before the 1st day of February, furnish to the Registrar of the Supreme Court an alphabetical list certified by him, under his hand, of all solicitors who have taken out

their certificates for the current year, and shall from time to time add to the list the name of each solicitor who takes out a certificate at a subsequent period of the year, noting thereon the time when the certificate was taken out. R.S.O. 1950, c. 368, s. 17.

**18.** Every practising solicitor whose name appears on the roll of solicitors shall obtain from the secretary, annually during the two weeks next preceding the last day of November, a certificate under the seal of the Society stating that he is a practising solicitor of the Supreme Court. R.S.O. 1950, c. 368, s. 18.

Annual certificate to be obtained by solicitors

**19.** A certificate shall not be issued to a solicitor who is indebted to the Society for any fee payable to the Society, nor until the annual fee for each certificate prescribed by the rules of the Society is paid. R.S.O. 1950, c. 368, s. 19.

Fees to be paid before certificate issued

**20.** A solicitor admitted in or after November shall not be required to take out his annual certificate before November in the year next following the year of his admission. R.S.O. 1950, c. 368, s. 20.

Certificate not required until November after admission

**21.** If a solicitor omits to take out his annual certificate within the prescribed period he is not entitled thereto until he pays to the Society not only the prescribed certificate fee, together with any other fees that he owes to the Society, but also by way of penalty, if such certificate is not taken out before the first Monday in February, the sum of \$6, if not before the third Monday in May, the sum of \$9, and if not before the second Monday in September, the sum of \$12. R.S.O. 1950, c. 368, s. 21.

Penalty for neglect to take out certificate

**22.** If a solicitor or any member of a firm of solicitors either in his own name or in the name of any member of his firm, practises in the Supreme Court or in a county or district court or in a surrogate court without such certificate being taken out by him, and by each member of his firm, he shall forfeit the sum of \$40, which shall be paid to the Society, and may be recovered in the Supreme Court. R.S.O. 1950, c. 368, s. 22.

Solicitors, etc., practising without certificate to forfeit \$40

**23.** If a solicitor practises in any such court without having taken out such certificate in each and every year of his practice he is liable to be suspended from practice by order of the Supreme Court for a period of not less than three and not more than six months, and shall continue so suspended until his certificate fee for the year in which he so practised, together with a penalty of \$40, is paid to the Society. R.S.O. 1950, c. 368, s. 23.

Further penalty for practising without a certificate

Disability of  
solicitors in  
prison or  
suspended

**24.**—(1) A solicitor who is a prisoner in a penal or reform institution shall not during his confinement therein, nor shall a solicitor who has been suspended from practising during the period of his suspension, commence, prosecute or defend as such solicitor any action in any court nor act in any matter in bankruptcy or insolvency.

Practitioner  
guilty of  
contempt

(2) A solicitor so practising, and any solicitor permitting or empowering him so to practise in his name, is guilty of a contempt of the court in which any such proceedings are taken, and is punishable by such court accordingly.

Not to re-  
cover fees

(3) A solicitor is incapable of maintaining any action for the recovery of any fee, reward or disbursement for or in respect of any matter or thing done by him in his own name or in the name of any other solicitor while so imprisoned or suspended. R.S.O. 1950, c. 368, s. 25.

Solicitors  
not to act  
as agents  
of unquali-  
fied persons

**25.**—(1) A solicitor shall not knowingly act as the professional agent of any person not duly qualified to act as a solicitor, or suffer his name to be used in any such agency on account of or for the profit of an unqualified person, or send any process to such person, or do any other act to enable him to practise in any respect as a solicitor, knowing him not to be duly qualified.

Punishment  
by striking  
off the roll

(2) If complaint is made in a summary way of a contravention of this section, a judge of the Supreme Court, upon proof thereof, may order that the solicitor so offending be struck off the roll and disqualified from practising as a solicitor.

Committal of  
unqualified  
person

(3) The court may also commit such unqualified person having so practised to the common jail for any term not exceeding one year. R.S.O. 1950, c. 368, s. 26.

Court may  
strike  
solicitors  
off the roll

**26.** The Supreme Court may strike the name of any solicitor off the roll of solicitors for default by him in payment of money received by him as a solicitor. R.S.O. 1950, c. 368, s. 27.

Practice  
prohibited  
while holding  
certain  
offices

**27.**—(1) A solicitor shall not practise in any court in Ontario either in his own name or by his partner, deputy or agent, or in the name of any other person, or otherwise directly or indirectly, while he holds or conducts any office of the Supreme Court, or of a county or district court, a surrogate court or a division court to which he is appointed by the Crown, but nothing in this section extends to a local master or deputy registrar of the Supreme Court or to the Official Guardian, or to an official referee, a drainage referee or an official arbitrator.

(2) Every person who contravenes any of the provisions of <sup>Penalty</sup> this section is liable to a penalty of \$2,000. R.S.O. 1950, c. 368, s. 28.

**28.** A solicitor shall not practise in any court in Ontario <sup>Practice prohibited while engaged as a merchant</sup> while he is engaged in the business of a merchant, or connected by partnership in purchasing or vending merchandise in the way of trade as a merchant, nor until twelve months after he has ceased to be such merchant or to be so engaged or connected. R.S.O. 1950, c. 368, s. 29.

**29.** Except in case of fraud, no person admitted and en- <sup>Limitation of time for striking off roll for defect in articles</sup> rolled shall be struck off the roll on account of any defect in the articles of clerkship or in the filing thereof, or in his service thereunder or in his admission and enrolment, unless application for striking him off the roll is made within twelve months next after his admission and enrolment. R.S.O. 1950, c. 368, s. 30.

**30.** Where a solicitor is struck off the roll, the Registrar of <sup>Notification of the Society when solicitor struck off roll</sup> the Supreme Court shall certify the same under his hand and the seal of the court to the secretary of the Society, stating whether the solicitor was struck off at his own request or otherwise, and the secretary shall attach the certificate to the certified copy of the roll on which the name of the solicitor stands, and shall, in the book kept by him, make a note opposite the name of the person of his having been struck off the roll. R.S.O. 1950, c. 368, s. 31.

**31.—(1)** No action shall be brought for the recovery of <sup>Solicitors to deliver their bill one month before bringing action for costs</sup> fees, charges or disbursements for business done by a solicitor as such until one month after a bill thereof, subscribed with the proper hand of the solicitor, his executor, administrator or assignee or, in the case of a partnership, by one of the partners, either with his own name, or with the name of the partnership, has been delivered to the person to be charged therewith, or sent by post to, or left for him at his office or place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill.

(2) In proving compliance with this Act it is not necessary <sup>Not necessary in first instance to prove contents of bill delivered</sup> in the first instance to prove the contents of the bill delivered, sent or left, but it is sufficient to prove that a bill of fees, charges or disbursements subscribed as required by subsection 1, or enclosed in or accompanied by such letter, was so delivered, sent or left, but the other party may show that the bill so delivered, sent or left, was not such a bill as constituted a compliance with this Act.

Charges in  
lump sum

(3) A solicitor's bill of fees, charges or disbursements is sufficient in form if it contains a reasonable statement or description of the services rendered with a lump sum charge therefor together with a detailed statement of disbursements, and in any action upon or taxation of such a bill if it is deemed proper further details of the services rendered may be ordered. R.S.O. 1950, c. 368, s. 32.

Order for  
taxation on  
*praecipe*

**32.** Where the retainer of the solicitor is not disputed and there are no special circumstances, an order may be obtained on *praecipe* from the proper officer in the county in which the solicitor resides,

- (a) by the client, for the delivery and taxation of the solicitor's bill;
- (b) by the client, for the taxation of a bill already delivered, within one month from its delivery;
- (c) by the solicitor, for the taxation of a bill already delivered, at any time after the expiration of one month from its delivery, if no order for its taxation has been previously made. R.S.O. 1950, c. 368, s. 33.

No reference  
on applica-  
tion of party  
chargeable  
after verdict  
or after 12  
months from  
delivery

**33.**—(1) No such reference shall be directed upon an application made by the party chargeable with such bill after a verdict or judgment has been obtained, or after twelve months from the time such bill was delivered, sent or left as aforesaid, except under special circumstances to be proved to the satisfaction of the court or judge to whom the application for the reference is made.

Directions  
as to costs

(2) Where the reference is made under subsection 1, the court or judge, in making it, may give any special directions relative to its costs. R.S.O. 1950, c. 368, s. 34.

When officer  
may tax bill  
*ex parte*

**34.** In case either party to a reference, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the bill *ex parte*. R.S.O. 1950, c. 368, s. 35.

Delivery of  
bill and  
reference to  
taxation

**35.**—(1) When a client or other person obtains an order for the delivery and taxation of a solicitor's bill of fees, charges and disbursements, or a copy thereof, the bill shall be delivered within fourteen days from the service of the order.

Credits,  
debits, etc.,  
on reference

(2) The bill delivered shall stand referred to the proper officer for taxation, and on the reference the solicitor shall give credit for, and an account shall be taken of, all sums of money by him received from or on account of the client, and the solicitor shall refund what, if anything, he may on such taxation appear to have been overpaid.



(3) The costs of the reference are, unless otherwise directed, Costs on reference in the discretion of the officer, subject to appeal, and shall be taxed by him when and as allowed.

(4) The solicitor shall not commence or prosecute any No action pro tem action in respect of the matters referred pending the reference without leave of the court or a judge.

(5) The amount certified to be due shall be paid forthwith Amount certified after confirmation of the certificate by filing, as in the case of a master's report, by the party liable to pay the same.

(6) Upon payment by the client or other person of what, if Client's papers anything, appears to be due to the solicitor, or if nothing is found to be due to the solicitor, the solicitor, if required, shall deliver to the client or other person, or as he directs, all deeds, books, papers and writings in the solicitor's possession, custody or power belonging to the client.

(7) The order shall be read as if it contained the above Contents of order particulars, and shall not set forth the same, but may contain any variation therefrom and any other directions that the court or judge sees fit to make.

(8) An order for reference of a solicitor's bill for taxation What order presumed to contain shall be presumed to contain subsections 2 to 6 whether obtained on *praecipe* or otherwise, and by the solicitor, client or other person liable to pay the bill.

(9) The reference for taxation shall, unless otherwise Reference to be to local taxing officer ordered, be to the proper taxing officer for the county in which the solicitor resides. R.S.O. 1950, c. 368, s. 36.

**36.** A judge of the Supreme Court or of a county or district When actions for costs within the month may be allowed court, on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to depart from Ontario, may authorize a solicitor to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of the bill. R.S.O. 1950, s. 368, s. 37.

**37.**—(1) Where a person, not being chargeable as the Taxation where a party not being the principal, pays a bill of costs principal party, is liable to pay or has paid a bill either to the solicitor, his assignee, or personal representative, or to the principal party entitled thereto, the person so liable to pay or paying, his assignee or personal representative, may apply to the court for an order referring to taxation as the party chargeable therewith might himself have done, and the same proceedings shall be had thereupon as if the application had been made by the party so chargeable.

What special circumstances may be considered in such case

(2) If such application is made where, under the provisions hereinbefore contained, a reference is not authorized to be made except under special circumstances, the court may take into consideration any additional special circumstances applicable to the person making it, although such circumstances might not be applicable to the party chargeable with the bill if he was the party making the application.

Order for delivery of a copy of the bill

(3) For the purpose of such reference, the court may order the solicitor, his assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy.

Taxation at instance of third person

(4) When a person, other than the client, applies for taxation of a bill delivered or for the delivery of a copy thereof for the purpose of taxation and it appears that by reason of the conduct of the client the applicant is precluded from taxing the bill, but is nevertheless entitled to an account from the client, it is not necessary for the applicant to bring an action for an account, but the court may, in a summary manner, refer a bill already delivered or order delivery of a copy of the bill, and refer it for taxation, as between the applicant and the client, and may add such parties not already notified as may be necessary.

Application of s. 35

(5) The provisions of section 35, so far as they are applicable, apply to such taxation. R.S.O. 1950, c. 368, s. 38.

When a bill may be retaxed

**38.** No bill previously taxed shall be again referred unless under the special circumstances of the case the court thinks fit to direct a retaxation thereof. R.S.O. 1950, c. 368, s. 39.

Payment not to preclude taxation if applied for within a year

**39.** The payment of a bill does not preclude the court from referring it for taxation, if the application is made within twelve months after payment, and if the special circumstances of the case, in the opinion of the court, appear to require the taxation. R.S.O. 1950, c. 368, s. 40.

Taxation of costs

**40.** The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a surrogate court, may be directed to be taxed by the proper officer of such court. R.S.O. 1950, c. 368, s. 41.

A taxing officer may require the assistance of the officer of any other court

**41.** Where a bill is referred for taxation, the officer to whom the reference is made may request the proper officer of any other court to assist him in taxing any part of the bill, and the officer so requested shall thereupon tax it, and has the same powers and may receive the same fees in respect thereof as upon a reference to him by the court of which he is an officer, and he shall return the bill, with his opinion thereon, to the officer who so requests him to tax it. R.S.O. 1950, c. 368, s. 42.

**42.** Every application to refer a bill for taxation, or for the delivery of a bill, or for the delivering up of deeds, documents and papers, shall be made *In the matter of (the solicitor)*, and upon the taxation of the bill the certificate of the officer by whom the bill is taxed, unless set aside or varied, is final and conclusive as to the amount thereof, and payment of the amount certified to be due and directed to be paid may be enforced according to the practice of the court in which the reference was made. R.S.O. 1950, c. 368, s. 43.

How applications against solicitors to be entitled

**43.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make general rules or regulations, other than rules relating to the admission and enrolment of solicitors, for carrying out this Act. R.S.O. 1950, c. 368, s. 44.

Rules Committee may make rules, etc.

**44.** Such rules may include rules respecting business by solicitors connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing, and may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum or by a fixed sum for each document prepared or perused without regard to length, or in any other mode or partly in one mode and partly in another or others, and may, as regards the amount of the remuneration, regulate the same with reference to all or any of the following among other considerations:

Principles of remuneration in conveyancing matters

1. The position of the party for whom the solicitor is concerned in any business, that is, whether as vendor or as purchaser, lessor or lessee, mortgagor or mortgagee, and the like.
2. The place, district and circumstances at or in which the business or part thereof is transacted.
3. The amount of the capital money or of the rent to which the business relates.
4. The skill, labour and responsibility involved therein on the part of the solicitor.
5. The number and importance of the documents prepared or perused, without regard to length. R.S.O. 1950, c. 368, s. 45.

**45.** In the absence of any general rule, and so far as any such general rules do not apply, the taxing officer, in taxing a bill for preparing and executing any instrument, shall consider not the length but the skill and labour employed and responsibility incurred in the preparation thereof. R.S.O. 1950, c. 368, s. 46.

What to be considered in taxation of costs

Interpre-  
tation

**46.** In this section and in sections 47 to 64,

- (a) "client" includes a person who, as a principal or on behalf of another person, retains or employs or is about to retain or employ a solicitor, and a person who is or may be liable to pay the bill of a solicitor for any services, fees, costs, charges or disbursements;
- (b) "services" includes fees, costs, charges and disbursements. R.S.O. 1950, c. 368, s. 47.

Agreements  
between  
solicitors  
and clients  
as to com-  
pensation

**47.**—(1) Subject to sections 48 to 64, a solicitor may make an agreement in writing with his client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of business done or to be done by the solicitor, either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate or at a greater or less rate than that at which he would otherwise be entitled to be remunerated.

Interpre-  
tation

(2) In this section, the expressions "commission" and "percentage" apply only to non-contentious business and to conveyancing.

Application

(3) This section applies to and includes any business to which section 44 relates, whether or not any general rule under section 43 is in operation. R.S.O. 1950, c. 368, s. 48.

Approval of  
agreement  
by taxing  
officer

**48.** Where the agreement is made in respect of business done or to be done in any court, except a division court, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by a taxing officer of a court having power to enforce the agreement. R.S.O. 1950, c. 368, s. 49.

Opinion of  
court on  
agreement

**49.** Where it appears to the taxing officer that the agreement is not fair and reasonable, he may require the opinion of a court to be taken thereon. R.S.O. 1950, c. 368, s. 50.

Rejection of  
agreement  
by court

**50.** The court may either reduce the amount payable under the agreement or order it to be cancelled and the costs, fees, charges and disbursements in respect of the business done to be taxed in the same manner as if the agreement had not been made. R.S.O. 1950, c. 368, s. 51.

Agreement  
not to affect  
costs as be-  
tween party  
and party

**51.** Such an agreement does not affect the amount, or any right or remedy for the recovery, of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him to or from the client to be taxed in the ordinary manner, unless such person has

otherwise agreed; but the client who has entered into the agreement is not entitled to recover from any other person under any order for the payment of any costs that are the subject of the agreement more than the amount payable by the client to his own solicitor under the agreement. R.S.O. 1950, c. 368, s. 52.

**52.** Such an agreement excludes any further claim of the solicitor beyond the terms of the agreement in respect of services in relation to the conduct and completion of the business in respect of which it is made, except such as are expressly excepted by the agreement. R.S.O. 1950, c. 368, s. 53.

Claims for additional remuneration excluded

**53.** A provision in any such agreement that the solicitor is not to be liable for negligence or that he is to be relieved from any responsibility to which he would otherwise be subject as such solicitor is wholly void. R.S.O. 1950, c. 368, s. 54.

Agreements relieving solicitor from liability for negligence void

**54.** No action shall be brought upon any such agreement, but every question respecting the validity or effect of it may be examined and determined, and it may be enforced or set aside without action on the application of any person who is a party to the agreement or who is or is alleged to be liable to pay or who is or claims to be entitled to be paid the costs, fees, charges or disbursements, in respect of which the agreement is made, by the court, not being a division court, in which the business or any part of it was done or a judge thereof, or, if the business was not done in any court, by the Supreme Court. R.S.O. 1950, c. 368, s. 55.

Determination of disputes under the agreement

**55.** Upon any such application, if it appears to the court that the agreement is in all respects fair and reasonable between the parties, it may be enforced by the court by order in such manner and subject to such conditions as to the costs of the application as the court thinks fit, but, if the terms of the agreement are deemed by the court not to be fair and reasonable, the agreement may be declared void, and the court may order it to be cancelled and may direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be taxed in the ordinary manner. R.S.O. 1950, c. 368, s. 56.

Enforcement of agreement

**56.** Where the amount agreed under any such agreement has been paid by or on behalf of the client or by any person chargeable with or entitled to pay it, the Supreme Court may, upon the application of the person who has paid it, within twelve months after the payment thereof, if it appears to the court that the special circumstances of the case require the

Reopening of agreement

agreement to be reopened, reopen it and order the costs, fees, charges and disbursements to be taxed, and may also order the whole or any part of the amount received by the solicitor to be repaid by him on such terms and conditions as to the court seems just. R.S.O. 1950, c. 368, s. 57.

Agreements  
made by  
client in  
fiduciary  
capacity

**57.** Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person whose estate or property will be chargeable with the amount or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the senior taxing officer at Toronto who shall examine it and may disallow any part of it or may require the direction of the court to be made thereon. R.S.O. 1950, c. 368, s. 58.

Client paying  
without  
approval to  
be liable to  
estate

**58.** If the client pays the whole or any part of such amount without the previous allowance of such officer or the direction of the court, he is liable to account to the person whose estate or property is charged with the amount paid or any part of it for the amount so charged, and the solicitor who accepts such payment may be ordered by the court to refund the amount received by him. R.S.O. 1950, c. 368, s. 59.

Solicitors  
not to  
purchase  
any interest  
in litigation  
or to make  
payment  
dependent  
upon  
success

**59.** Nothing in sections 47 and 64 gives validity to a purchase by a solicitor of the interest or any part of the interest of his client in any action or other contentious proceeding to be brought or maintained, or gives validity to an agreement by which a solicitor retained or employed to prosecute an action or proceeding stipulates for payment only in the event of success in the action or proceeding, or where the amount to be paid to him is a percentage of the amount or value of the property recovered or preserved or otherwise determinable by such amount or value or dependent upon the result of the action or proceeding. R.S.O. 1950, c. 368, s. 60.

Where  
solicitor dies  
or becomes  
incapable of  
acting after  
agreement

**60.** Where a solicitor who has made such an agreement and who has done anything under it dies or becomes incapable of acting before the agreement has been completely performed by him, an application may be made to any court that would have jurisdiction to examine and enforce the agreement by any person who is a party thereto, and the court may thereupon enforce or set aside the agreement so far as it may have been acted upon as if the death or incapacity had not happened, and, if it deems the agreement to be in all respects fair and reasonable, may order the amount in respect of the past performance of it to be ascertained by taxation, and the taxing officer, in ascertaining such amount, shall have regard, so far as may be, to the terms of the agreement, and payment of

the amount found to be due may be ordered in the same manner as if the agreement had been completely performed by the solicitor. R.S.O. 1950, c. 368, s. 61.

**61.** If, after any such agreement has been made, the client changes his solicitor before the conclusion of the business to which the agreement relates, which he is at liberty to do notwithstanding the agreement, the solicitor, party to the agreement, shall be deemed to have become incapable to act under it within the meaning of section 60, and upon any order being made for taxation of the amount due him in respect of the past performance of the agreement the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor took place, and upon the taxation the solicitor shall be deemed not to be entitled to the full amount of the remuneration agreed to be paid to him, unless it appears that there has been no default, negligence, improper delay or other conduct on his part affording reasonable ground to the client for the change of solicitor. R.S.O. 1950, c. 368, s. 62.

Changing solicitor after making agreement

**62.** Except as otherwise provided in sections 47 to 61 and sections 63 and 64, a bill of a solicitor for the amount due under any such agreement is not subject to any taxation or to any provision of law respecting the signing and delivery of a bill of a solicitor. R.S.O. 1950, c. 368, s. 63.

Bills under agreement not to be liable to taxation

**63.** A solicitor may accept from his client, and a client may give to his solicitor, security for the amount to become due to the solicitor for business to be transacted by him and for interest thereon, but so that the interest is not to commence until the amount due is ascertained by agreement or by taxation. R.S.O. 1950, c. 368, s. 64.

Security may be given to solicitor for costs

**64.** A solicitor may charge interest at the rate of 5 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from demand from the client, and where the same are payable by an infant or out of a fund presently available the demand may be made on the parent or guardian or the trustee or other person liable. R.S.O. 1950, c. 368, s. 65.

Interest on disbursements and costs

**65.** In sections 66 to 68, the expression "mortgage" includes any charge on any property for securing money or money's worth. R.S.O. 1950, c. 368, s. 66.

Interpretation

**66.** A solicitor to whom, either alone or jointly with any other person, a mortgage is made, or the firm of which the solicitor is a member, is entitled to receive for all business

Charges, etc., where mortgage is made with solicitor

transacted and acts done by the solicitor or firm in negotiating the loan, deducing and investigating the title to the property and preparing and completing the mortgage, all the usual professional charges and remuneration that he or they would have been entitled to receive if the mortgage had been made to a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the mortgagor. R.S.O. 1950, c. 368, s. 67.

Right of solicitor with whom mortgage is made to recover costs, etc.

**67.** A solicitor to or in whom, either alone or jointly with any other person, a mortgage is made or is vested by transfer or transmission, or the firm of which the solicitor is a member, is entitled to receive and recover from the person on whose behalf the same is done or to charge against the security for all business transacted and acts done by the solicitor or firm subsequent and in relation to the mortgage or to the security thereby created or the property therein comprised all such usual professional charges and remuneration as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and accordingly the mortgage shall not be redeemed except upon payment of such charges and remuneration. R.S.O. 1950, c. 368, s. 68.

Solicitor-director, right to charge for services to trust estate

**68.** A solicitor who is a director of a trust company or of any other company, or the firm of which the solicitor is a member is entitled to receive for all business transacted or acts done by the solicitor or firm for the company in relation to or in connection with any matter in which the company acts as trustee, guardian, personal representative or agent, all the usual professional fees and remuneration that he or they would be entitled to receive if the solicitor had not been a director of the company, and the company had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the company and may be charged by them as a disbursement in the matter of such trusteeship, guardianship, administration or agency. R.S.O. 1950, c. 368, s. 69.

Collection of costs where corporation solicitor or counsel receives salary

**69.** Where the remuneration of a solicitor or counsel employed by a corporation is wholly or partly paid by salary, the corporation employing the solicitor or counsel has, notwithstanding, the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the



solicitor or counsel were not receiving a salary if the costs are by the terms of his employment payable to the solicitor or counsel as part of his remuneration in addition to his salary. R.S.O. 1950, c. 368, s. 70.

**70.** Nothing in this Act interferes with the jurisdiction <sup>Saving</sup> over solicitors as officers of court. R.S.O. 1950, c. 368, s. 71. <sup>jurisdiction</sup>  
<sup>of court</sup>

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## CHAPTER 379

**The Spruce Pulpwood Exportation Act**

**1.** Where lands have been granted pursuant to any special Act as a subsidy to any railway or other company in connection with the establishment of its undertaking in Ontario and by such Act the exportation from Canada of spruce pulpwood cut from such lands in an unmanufactured condition is prohibited, the Lieutenant Governor in Council, on the recommendation of the Minister of Lands and Forests and notwithstanding anything in any such Act or in any patent from the Crown of lands granted pursuant thereto, may suspend the operation of any such prohibition and may permit the exportation of spruce pulpwood cut from such lands in an unmanufactured condition for such period and upon such terms and conditions as to him seems proper. R.S.O. 1950, c. 369, s. 1.

Prohibition  
of exportation in  
special  
Acts may  
be suspended

**2.** The Lieutenant Governor in Council may make such regulations as he deems necessary or desirable to carry out effectively the intent and purpose of this Act and for its efficient administration. R.S.O. 1950, c. 369, s. 2.

Regulations



## CHAPTER 380

## The Stallions Act

**1.** In this Act,Interpre-  
tation

- (a) "Board" means the Stallion Enrolment Board;
- (b) "Commissioner" means the Live Stock Commissioner;
- (c) "inspector" means an inspector appointed for the purposes of this Act;
- (d) "Minister" means the Minister of Agriculture.  
R.S.O. 1950, c. 370, s. 1.

**2.—(1)** The Lieutenant Governor in Council may appoint <sup>Board,</sup> four persons who, with the Commissioner, shall constitute the <sup>composition</sup> Board.

(2) The Lieutenant Governor in Council shall designate <sup>Chairman</sup> one of the persons so appointed to be chairman of the Board.

(3) The Commissioner shall be the executive officer and <sup>Executive</sup> secretary of the Board. <sup>officer and</sup> <sup>secretary</sup>

(4) The Lieutenant Governor in Council may fix the <sup>Remunera-</sup> remuneration and allowance for expenses of the members of <sup>tion</sup> the Board. R.S.O. 1950, c. 370, s. 2.

**3.** The Board shall adopt an official seal and cause an <sup>Official</sup> impression thereof to be made on every certificate issued by it. <sup>seal</sup>  
R.S.O. 1950, c. 370, s. 3.

**4.** The Board shall,Duties of  
Board

- (a) recommend persons whom it deems suitable for appointment as inspectors;
- (b) make such arrangements as it deems necessary for the training of inspectors;
- (c) determine the times within the periods fixed by the regulations and the places that inspections shall be made;
- (d) wherever it deems it expedient, require any stallion to be inspected at such time and place as the Board determines;
- (e) examine the reports of inspectors and grade and enrol such stallions as it deems proper;

- (f) issue interim enrolment certificates or enrolment certificates to owners of enrolled stallions;
- (g) issue annually a report showing the names and addresses of the owners of enrolled stallions and containing such particulars as the Board deems proper;
- (h) perform such other duties as the Minister directs. R.S.O. 1950, c. 370, s. 4.

**Inspectors**

**5.** The Lieutenant Governor in Council may appoint one or more inspectors for the purpose of this Act and may fix their remuneration and allowance for expenses. R.S.O. 1950, c. 370, s. 5.

**Conditions precedent to enrolment**

**6.** No stallion shall be enrolled,

- (a) unless the stallion is registered in the name of the person applying for the enrolment in a stud book recognized by the Board;
- (b) unless the stallion has been inspected under this Act; and
- (c) unless the prescribed fees have been paid. R.S.O. 1950, c. 370, s. 6.

**Refusal to enrol**

**7.** The Board may refuse to enrol a stallion if the Board is of the opinion that the stallion is for any reason unsuitable for breeding purposes. R.S.O. 1950, c. 370, s. 7.

**Right to protest decision of Board**

**8.—(1)** If the owner of a stallion is dissatisfied with the decision of the Board he may file a notice of protest against the decision with the Commissioner, whereupon the Board shall reconsider the matter and make a final decision as though the original decision had not been made.

**Notice of protest to contain reasons**

**(2)** Every such notice of protest shall be in writing and shall set forth the owner's reasons for his dissatisfaction with the decision of the Board.

**Time of filing**

**(3)** Every such notice of protest shall be filed within thirty days after receipt by the owner of the original decision of the Board.

**Deposit**

**(4)** Every such notice of protest shall be accompanied by a deposit of \$25 which shall be returned to the owner if the decision is reversed or altered and shall be retained by the Board in the same manner as fees if the original decision is sustained. R.S.O. 1950, c. 370, s. 8.

**9.**—(1) Every newspaper notice, poster, handbill or other matter published or prepared for the purpose of advertising a stallion shall state the grade of such stallion as shown on its enrolment certificate and shall also state the date of expiry of such enrolment certificate. Advertising matter

(2) A copy of every such notice, poster, handbill or other matter published or prepared for the purpose of advertising a stallion shall be filed with the Commissioner forthwith after it is published or prepared. to be filed with Commissioner R.S.O. 1950, c. 370, s. 9.

**10.** No person shall stand, travel or offer for service or sale any stallion unless the stallion is enrolled under this Act. Enrolment necessary R.S.O. 1950, c. 370, s. 10.

**11.** The person in charge of a stallion at the time of service shall produce its enrolment certificate to the person in charge of the mare if called upon to do so. Production of enrolment certificate R.S.O. 1950, c. 370, s. 11.

**12.** No service fee is collectable unless the stallion is enrolled under this Act at the time of service. Service fee R.S.O. 1950, c. 370, s. 12.

**13.** The owner of an enrolled stallion shall forthwith upon its death notify the Commissioner in writing of such death and return its enrolment certificate with such notice. Death notice R.S.O. 1950, c. 370, s. 13.

**14.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100. Offence R.S.O. 1950, c. 370, s. 14.

**15.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) establishing and describing grades for stallions;
- (b) dividing Ontario into two or more inspection divisions and prescribing periods for each division within which inspections shall be made on the days determined by the Board;
- (c) designating the maximum interval that may elapse between inspections of stallions;
- (d) providing for special inspections and the grading of stallions specially inspected;
- (e) prescribing the period or periods of enrolment and providing for the issue of interim enrolment certificates and enrolment certificates;

- (*f*) prescribing fees for inspection, enrolment and the issue of interim enrolment certificates and enrolment certificates and providing for the waiving of such fees in prescribed cases;
  - (*g*) providing for the payment, out of the moneys that are appropriated by the Legislature for the purpose, of premiums to the owners of enrolled stallions or any breed or grade thereof, and defining classes of enrolled stallions that are eligible for premiums, and describing the terms and conditions governing the payment of such premiums;
  - (*h*) prescribing the form of application for enrolment, the certificate of enrolment and such other forms as may be required;
  - (*i*) exempting from the Act any breed or class of stallions;
  - (*j*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 370, s. 15; 1958, c. 101, s. 1.
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## CHAPTER 381

## The Statute of Frauds

1.—(1) Every estate or interest of freehold and every uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be made or created by a writing signed by the parties making or creating the same, or their agents thereunto lawfully authorized in writing, and, if not so made or created, has the force and effect of an estate at will only, and shall not be deemed or taken to have any other or greater force or effect.

Writing  
required to  
create  
certain  
estates or  
interests

(2) All leases and terms of years of any messuages, lands, tenements or hereditaments are void unless made by deed.

Leases to  
be made  
by deed

2. Subject to section 9 of *The Conveyancing and Law of Property Act*, no lease, estate or interest, either of freehold or term of years, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be assigned, granted or surrendered unless it be by deed or note in writing signed by the party so assigning, granting, or surrendering the same, or his agent thereunto lawfully authorized by writing or by act or operation of law. R.S.O. 1950, c. 371, s. 2.

How leases  
or estates  
of freehold,  
etc., to be  
granted or  
surrendered  
R.S.O. 1960,  
c. 66

3. Sections 1 and 2 do not apply to a lease, or an agreement for a lease, not exceeding the term of three years from the making thereof, the rent upon which, reserved to the landlord during such term, amounts to at least two-thirds of the full improved value of the thing demised. R.S.O. 1950, c. 371, s. 3.

Except  
leases not  
exceeding  
three years,  
etc.

4. No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge any person upon any special promise to answer for the debt, default or miscarriage of any other person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action is brought, or some memorandum or note

Writing  
required  
for certain  
contracts

thereof is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized. R.S.O. 1950, c. 371, s. 4.

Limitation  
as to validity  
of certain  
covenants or  
conditions

**5.** A promise, contract or agreement to pay a sum of money by way of liquidated damages or to do or suffer any other act, matter or thing based upon, arising out of, or relating to a promise, contract or agreement dealt with in section 4 is not of any greater validity than the last-mentioned promise, contract or agreement. R.S.O. 1950, c. 371, s. 5.

Considera-  
tion for  
promise to  
answer for  
another  
need not  
be in  
writing

**6.** No special promise made by a person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action or other proceeding to charge the person by whom the promise was made by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R.S.O. 1950, c. 371, s. 6.

As to rati-  
fication of  
promise  
made  
during  
nonage

**7.** No action shall be maintained whereby to charge a person upon a promise made after full age to pay a debt contracted during infancy or upon a ratification after full age of a promise or simple contract made during infancy, unless the promise or ratification is made by a writing signed by the party to be charged therewith or by his agent duly authorized to make the promise or ratification. R.S.O. 1950, c. 371, s. 7.

As to repre-  
sentation  
regarding  
the charac-  
ter, credit  
etc., of a  
third party

**8.** No action shall be brought whereby to charge a person upon or by reason of a representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless the representation or assurance is made by a writing signed by the party to be charged therewith. R.S.O. 1950, c. 371, s. 8.

Declarations  
or creations  
of trusts  
of land to  
be in  
writing

**9.** Subject to section 10, all declarations or creations of trusts or confidences of any lands, tenements or hereditaments shall be manifested and proved by a writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they are utterly void and of no effect. R.S.O. 1950, c. 371, s. 9.

**10.** Where a conveyance is made of lands or tenements by which a trust or confidence arises or results by implication or construction of law, or is transferred or extinguished by act or operation of law, then and in every such case the trust or confidence is of the like force and effect as it would have been if this Act had not been passed. R.S.O. 1950, c. 371, s. 10.

**11.** All grants and assignments of a trust or confidence shall likewise be in writing signed by the party granting or assigning the same, or by such last will or devise, or else are likewise utterly void and of no effect. R.S.O. 1950, c. 371, s. 11.



## CHAPTER 382

## The Statute Labour Act

## EXEMPTIONS

1. A person who is a member of the naval, military or air forces of Canada, or who is called out on active service or for annual training, or who is engaged in or called to the performance of naval, military or other duty in pursuance of orders in that behalf, is not liable to perform statute labour or to commute therefor. R.S.O. 1950, c. 372, s. 1.

*Exemptions of persons in naval, military or air forces*

2. A student in attendance at an institution of learning in Ontario is not liable to perform statute labour or to commute therefor, and no poll tax shall be levied against or collected from any such student. R.S.O. 1950, c. 372, s. 2.

*Students*

(NOTE.—See *Fire Fighters' Exemption Act, R.S.O. 1960, c. 146.*)

## POLL TAX

3.—(1) Councils of cities, towns, villages and townships may pass by-laws for levying and collecting an annual tax to be known as "poll tax" of not less than \$1 and not more than \$10 from every male inhabitant of the municipality who,

*Poll tax, who liable for*

- (a) is twenty-one years or over and under sixty years of age;
- (b) is not exempt from performing statute labour;
- (c) is not otherwise assessed in the municipality or who is assessed and whose taxes are less than the poll tax; and
- (d) has not filed with the clerk a certificate showing that he has been assessed or performed statute labour or paid poll tax elsewhere in Ontario.

(2) Where any person is assessed and his taxes are less than the amount of the poll tax, he is liable to pay the poll tax only.

*Payment where taxes less than poll tax*

(3) Where any such male inhabitant has been employed by the same person for not less than thirty days, the employer shall pay over the amount of the tax to the collector on demand out of any wages due to the employee, and such payment relieves the employer from any liability to the employee for the amount so paid. R.S.O. 1950, c. 372, s. 3.

*Payment to collector by employer*

## STATUTE LABOUR

Number of  
days of  
statute  
labour

4.—(1) Every person assessed upon the assessment roll of a township that has not passed a by-law abolishing statute labour is, if his property is assessed at not more than \$300, liable to two days statute labour; at more than \$300 but not more than \$500, three days; at more than \$500 but not more than \$700, four days; at more than \$700 but not more than \$900, five days; and for every \$300 over \$900, or any fractional part thereof over \$150, one additional day; but the council may, by a by-law operating generally and rateably, reduce or increase the number of days labour to which all the persons, rated on the assessment roll or otherwise, shall be respectively liable so that the number of days labour to which each person is liable shall be in proportion to the amount at which he is assessed, and in all cases both of residents and non-residents the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value.

Case of parts  
of lots  
owned by  
one person

(2) Where one person is assessed for lots or parts of several lots in different parts of the township, not exceeding in the aggregate 200 acres, such part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot.

Where  
labour to be  
performed

(3) Every resident has the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the municipal council.

Regulations  
as to  
performance

(4) The council may pass by-laws for regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended. R.S.O. 1950, c. 372, s. 4.

Commuta-  
tion of  
labour

5.—(1) The council of any township may by by-law direct that a sum not exceeding \$3 a day shall be paid as commutation of statute labour for the whole or any part of the township, in which case the amount of the commutation shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes.

Idem

(2) Where no such by-law has been passed, the statute labour in respect of lands of residents and non-residents shall be commuted at the rate of \$2 for each day's labour. R.S.O. 1950, c. 372, s. 5.

Labour in  
township in  
which poll  
tax is not  
levied

6.—(1) In a township that has not passed a by-law abolishing statute labour or a by-law for levying poll tax, every male inhabitant of the township who,

- (a) is twenty-one years or over and under sixty years of age;
- (b) is not exempt from performing statute labour;
- (c) is not otherwise assessed in the township; and
- (d) has not filed with the clerk a certificate showing that he has been assessed or performed statute labour or paid poll tax elsewhere in Ontario,

is liable to one day of statute labour on the roads and highways in the township.

(2) Every farmer's son entered as such on the assessment roll of a township is, if not otherwise exempted by law, <sup>Case of farmer's son</sup> liable to perform statute labour or commute therefor as if he were not so entered. R.S.O. 1950, c. 372, s. 6.

7. The council of every township may pass by-laws to <sup>Abolition of labour</sup> abolish statute labour. R.S.O. 1950, c. 372, s. 7.

8.—(1) Every person liable to pay poll tax shall pay it <sup>Collection of poll tax</sup> to the collector appointed to collect it within two days after demand therefor by the collector, and in case of neglect or refusal to pay the tax, the collector may levy it by distress and sale of the goods and chattels of the defaulter, with costs of distress, and if no sufficient distress can be found, the defaulter, for his refusal or neglect to pay the tax, shall incur a penalty of \$10.

(2) Any person liable to perform statute labour under section 6, not commuted, shall perform it when required so to do <sup>Penalty for non-performance</sup> by the pathmaster or other officer of the municipality appointed for that purpose, and, in case of wilful neglect or refusal to perform the labour after six days notice requiring him to do so, shall incur a penalty of \$10.

(3) All sums and penalties, other than costs, recovered <sup>Payment of penalties to treasurer</sup> under this section shall be paid to the treasurer of the local municipality and shall form part of the statute labour fund thereof. R.S.O. 1950, c. 372, s. 8.

9. A non-resident owner of unoccupied land shall not be <sup>Commutation in case of non-resident owner of unoccupied land</sup> permitted to perform statute labour in respect thereof, but the labour shall be commuted and the amount of the commutation shall be charged against every separate lot or parcel and be entered in the collector's roll, and the council shall order all sums paid on that account to be expended in the statute labour division in which the land is situate. R.S.O. 1950, c. 372, s. 9.

If resident owner, etc., makes default, commutation to be entered upon collector's roll

**10.—(1)** Where an owner or tenant makes default in performing his statute labour or in payment of commutation therefor, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labour against the land in the collector's roll of the current or following year, and it shall be collected by the collector.

Overseer to expend the commutation money in the division

**(2)** In every such case the clerk shall notify the overseer of highways who may be appointed for the division in the following year, or after it has been collected, of the amount of the commutation, and the overseer shall expend that amount upon the roads in the statute labour division where the property is situate, and shall give an order upon the treasurer of the municipality to the person performing the work. R.S.O. 1950, c. 372, s. 10.

#### STATUTE LABOUR IN UNINCORPORATED TOWNSHIPS ROAD COMMISSIONERS

Meeting for election of road commissioners

**11.—(1)** Twenty resident landholders,

- (a) in any unincorporated township;
- (b) in any designated part of any unincorporated township;
- (c) in any two or more contiguous unincorporated townships;
- (d) in any designated parts of two or more contiguous unincorporated townships; or
- (e) in any locality that has not been surveyed or laid out into townships,

have the right to have a public meeting called for the purpose of electing road commissioners.

Interpretation

**(2)** In this section and in the following sections of this Act, "landholder" means an owner, locatee, purchaser or tenant of land who is a British subject, and "resident" includes a person who resides in the township or locality for any part of a year. R.S.O. 1950, c. 372, s. 11.

Requisition for meeting

**12.—(1)** The landholders desiring the meeting to be called shall sign a requisition authorizing one of their number, who shall be named in the requisition, to call a meeting of the resident landholders of the township or townships or of the designated part or parts of the township or townships or of the locality for the purpose of electing road commissioners.



(2) Where it is proposed that the road commissioners shall have jurisdiction over two or more townships or designated parts of two or more townships, the requisition shall be signed by at least eight resident landholders in any one township or part of a township or where there are less than fifteen resident landholders in any one township or part of a township by a majority of them, but the total number of resident landholders signing the requisition shall not be less than twenty and the requisition shall designate what parts of the townships are to be included. R.S.O. 1950, c. 372, s. 12.

Where jurisdiction extends to parts of two or more townships

**13.** In case the person so named declines to call a meeting or neglects to do so for ten days after the requisition is presented to him, any three of the persons who signed the requisition may call the meeting. R.S.O. 1950, c. 372, s. 13.

Meeting in case person named fails to call it

**14.** The notice calling the meeting (Form 1),

Notice of meeting

- (a) shall be posted up in at least six conspicuous places and at each post office and public school house in the township, townships or locality, as the case may be; or
- (b) shall be mailed by registered letter to all landholders in the township, townships or locality addressed to their last known place of residence; or
- (c) shall be published once a week for at least three weeks in a newspaper having general circulation in the township, townships or locality,

and the day named in the notice shall be at least ten days from the date of the last posting, mailing or publication, as the case may be. 1960, c. 113, s. 1.

**15.** The election shall take place at the time named, and the number of the commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting, before proceeding to an election, decides that a number different from that stated in the requisition shall be elected, but the number shall not be less than three nor more than five. R.S.O. 1950, c. 372, s. 15.

Number of commissioners

**16.** In case the meeting is called by the person named in the requisition, he is entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman, and the chairman shall act as returning officer and, in the event of a tie, has a casting vote, although he may have previously voted, and the landholders present shall also appoint a secretary, who shall record the proceedings. R.S.O. 1950, c. 372, s. 16.

Chairman of meeting

Mode of  
voting

**17.**—(1) The landholders present shall decide how the voting for commissioners shall be conducted.

Qualification  
of voters

(2) Every person is entitled to vote in the election of the road commissioners who is,

- (a) of the full age of twenty-one years;
- (b) a British subject by birth or naturalization; and
- (c) a landholder in the township or townships, or part or parts thereof, or the locality, for which the election is held.

Where  
sufficient  
British  
subjects  
are not  
available

(3) Where there is not a sufficient number of resident landholders who are British subjects to have a meeting called for the election of road commissioners pursuant to the requirements of this Act, the Minister of Lands and Forests, upon the application in writing of any three resident landholders in the township or locality, may in writing certify to that effect and in that case, resident landholders otherwise qualified who are and who are not British subjects may have the meeting called and vote in the election of road commissioners. R.S.O. 1950, c. 372, s. 17.

Qualification  
of road com-  
missioners

**18.** No person may be elected as a road commissioner unless he is a British subject and otherwise qualified to vote in the election of road commissioners and unless he has performed or commuted for the statute labour to which he is liable. R.S.O. 1950, c. 372, s. 18.

Record of  
persons  
voting

**19.** The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and, unless the vote is by ballot, how each votes. R.S.O. 1950, c. 372, s. 19.

Objections  
to voters

**20.**—(1) If an objection is made to the right of any person to vote at the meeting, the person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to him an oath, or affirmation if he is by law permitted to affirm, according to the following form, whereupon the person shall be permitted to vote:

You swear (or *if the voter is entitled to affirm*, solemnly affirm) that you are of the age of twenty-one years, and that you are the owner, tenant, purchaser or locatee of lot.....in the .....concession of this township, that you are a British subject, and that you are entitled to vote at this election.

So help you God.

When oath,  
etc., not  
necessary

(2) In the case of an election held under the authority of subsection 3 of section 17, it is not necessary that a person desiring to vote be required to make oath or affirm that he is a

British subject, and the form set forth in subsection 1 shall be amended accordingly. R.S.O. 1950, c. 372, s. 20.

**21.** The commissioners elected shall take a declaration of office (Form 2) before a justice of the peace and shall hold office until their successors are elected at the meeting called as provided in section 29 or, where no such meeting is called, until the 31st day of May in the year following that in which they were elected. R.S.O. 1950, c. 372, s. 21.

**22.** The commissioners shall meet within two weeks after their election, and shall then or as soon thereafter as may be, name the roads and parts of roads upon which statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. R.S.O. 1950, c. 372, s. 22.

**23.—(1)** The commissioners have power to open road allowances when they have been laid down in the original surveys, and where such road allowances are either wholly or partly impracticable, to lay out roads in lieu thereof and direct the performance of statute labour thereon, and where no road allowances are laid down in the original surveys, but five per cent of the area is reserved for roads, the commissioners may lay out roads where necessary and direct the performance of statute labour accordingly.

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as above provided, the commissioners shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Department of Lands and Forests, and the commissioners may pay the cost of preparing the plan out of any moneys received by way of commutation of statute labour.

(3) In the case of a deviation passing over any patented improved land, the commissioners may pay to the owner of the land taken for the purpose of making the deviation the value of it as may be agreed upon between the commissioners and the owner, or in case of disagreement, as may be fixed by the judge of the district court of the district on an application made to him by the commissioners for that purpose.

(4) Where the value of the land taken has been agreed upon between the commissioners and the owner, the owner shall execute a conveyance of the land to Her Majesty in right of Ontario and such conveyance shall be registered in the proper registry or land titles office.

Idem

(5) Where the value of the land taken has not been agreed upon between the commissioners and the owner but has been fixed by the judge of the district court of the district, the order of the judge together with a plan and description of the land signed by an Ontario land surveyor shall be registered in the proper registry or land titles office and thereupon the land is vested in Her Majesty in right of Ontario. R.S.O. 1950, c. 372, s. 23.

Time for performance

**24.** The time for the performance of statute labour shall from time to time be regulated and fixed by resolution of the commissioners. R.S.O. 1950, c. 372, s. 24.

Amount of statute labour to be performed

**25.**—(1) Notwithstanding subsection 3, each owner, locatee, purchaser or tenant of land may be required to perform one day's labour for every fifty acres and one day's labour for the remainder of the acreage held by him, where the total acreage held by him divided by fifty leaves a remainder, and for the first ten acres that he has cleared after the first ten, he may be required to perform one day's additional labour, and for every twenty acres over and above the first ten, one additional day's labour, and each householder who is not an owner, locatee, purchaser or tenant of the land may be required each year to perform one day's labour. R.S.O. 1950, c. 372, s. 25 (1); 1957, c. 114, s. 1 (1).

Idem

(2) Any owner, locatee, purchaser or tenant of land holding less than fifty acres may be required to perform statute labour as the commissioners may direct, but not exceeding the scale provided for in subsection 1 where the land is in part cleared and not exceeding one day where no part of the land is cleared. R.S.O. 1950, c. 372, s. 25 (2).

Statute labour in unincorporated areas

(3) Where road commissioners have been elected for any unincorporated area the secretary-treasurer shall enter in the statute labour book the name, date of birth and place of abode of every male inhabitant thereof who,

- (a) is twenty-one years or over and under sixty years of age;
- (b) is not exempt from performing statute labour;
- (c) is not assessed for statute labour in the area under subsection 1 or 2; and
- (d) has not filed with the secretary-treasurer a certificate showing that he has been assessed or performed statute labour or paid poll tax elsewhere in Ontario,

and every such male inhabitant is liable to one day of statute labour on the roads in the area. R.S.O. 1950, c. 372, s. 25 (3); 1957, c. 114, s. 1 (2).

(4) Where the land in an unincorporated township is assessed for school purposes under *The Public Schools Act* the commissioners may by resolution provide that the amount of statute labour to be performed shall be determined on the same basis as is prescribed in subsection 1 of section 4 in which case the provisions of subsections 1 and 2 of section 4 apply *mutatis mutandis*. R.S.O. 1950, c. 372, s. 25 (4). Where land assessed for school purposes R.S.O. 1960, c. 330

**26.**—(1) Each commissioner shall, during the time he is required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour. R.S.O. 1950, c. 372, s. 26 (1). Commissioners to oversee work

(2) The commissioners have the same powers as municipal corporations have in reference to statute labour to appoint overseers and require returns to be made to them of the statute labour performed in their districts. R.S.O. 1950, c. 372, s. 26 (3). General powers

**27.**—(1) Any person instead of performing the statute labour required of him may commute therefor by payment at the rate per day fixed by resolution of the commissioners which rate shall not be greater than the rate per day paid for labour by the Department of Highways, and the commissioners shall expend all commutation money upon the roads on which the labour that is commuted for should have been performed, unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. Commutation

(2) The statute labour in respect of unoccupied land of a non-resident owner shall in all cases be commuted. R.S.O. 1950, c. 372, s. 27. Unoccupied land of non-resident owner

**28.**—(1) The commissioners may by resolution direct that a sum computed at the rate per day fixed by resolution of the commissioners under subsection 1 of section 27 shall be paid as commutation of statute labour for the whole of the township, provided that the resolution shall not take effect until it has been submitted to and sanctioned by the majority of the landholders present at the annual meeting or at a special meeting called in the manner provided for in this Act for the election of commissioners. Commutation of statute labour in townships

(2) The name of every person liable for the payment of the commutation shall be entered in the book directed to be kept by section 33, and the commissioners shall expend all commutation moneys received on the roads upon which the labour that is commuted for should have been performed unless in the opinion of the commissioners the money should be ex- Record of persons liable to commutation

pendent on other roads under their jurisdiction. R.S.O. 1950, c. 372, s. 28.

Meeting for  
election of  
new com-  
missioners

**29.** The majority of the commissioners may call a meeting to be held at any time between the 1st day of January and the 31st day of May for the election of their successors, but in case of their failure so to do a meeting may be called in the manner hereinbefore provided for a first election. R.S.O. 1950, c. 372, s. 29.

Penalty for  
neglect to  
perform  
work or pay  
money

**30.** Any person liable to perform statute labour or to pay an amount of commutation money in lieu thereof under sections 11 to 37 who, after six days notice requiring him to do the labour, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days labour for which he is liable or who, after six days notice requiring him to pay the money, fails to pay the amount of commutation money for which he is liable, shall incur a penalty of \$5, and in addition the amount of the commutation money as fixed by the commissioners under section 27 for each day in respect of which he makes default, the same to be paid to the secretary-treasurer and to be expended in improving the roads on which the labour should have been performed, or such other roads as, in the opinion of the commissioners, require improvement. R.S.O. 1950, c. 372, s. 30; 1958, c. 102, s. 1.

Election of  
chairman  
and appoint-  
ment of  
secretary-  
treasurer

**31.**—(1) The commissioners, at the first meeting after their election, shall elect one of their number as chairman to preside at meetings and shall appoint some competent person who may be one of themselves other than the chairman, as secretary-treasurer and the secretary-treasurer is exempt from the performance of statute labour and the commissioners may each year pay to the secretary-treasurer out of the commutation fund such amount, not exceeding \$50, as may be fixed by resolution of the commissioners.

Security

(2) The secretary-treasurer before entering on his duties shall take a declaration of office (Form 2) before a justice of the peace, and shall give security satisfactory to the commissioners which shall be lodged for safe-keeping with the chairman. R.S.O. 1950, c. 372, s. 31.

Commuta-  
tion money

**32.** The secretary-treasurer shall receive and safely keep all commutation money and shall pay out such money in accordance with the provisions of this Act. R.S.O. 1950, c. 372, s. 32.

Statute  
labour  
book

**33.**—(1) The secretary-treasurer shall keep a statute labour book (Form 3) and shall enter therein the name of every person liable for the performance of statute labour or

payment of the commutation and the lot or parcel of land in respect of which he is liable.

(2) Upon the performance of statute labour or payment of the commutation the secretary-treasurer shall make entry thereof in the statute labour book in the column provided for that purpose.

Entry of  
payment or  
performance

(3) Where any person who has been served with the prescribed notice as provided in section 34 does not perform his statute labour or commute therefor, the secretary-treasurer shall enter the commutation thereof in the proper column of the statute labour book against the name of the person in default.

Entry of  
default

(4) The statute labour book shall be available for inspection at all reasonable times by any owner or locatee of land, or householder in the area over which the commissioners have jurisdiction and by any officer or servant of the Department of Highways designated by the Minister of Highways. R.S.O. 1950, c. 372, s. 33.

Inspection  
of statute  
labour book

**34.**—(1) The secretary-treasurer shall serve each notice to perform statute labour (Form 4) or, where a resolution has been passed and sanctioned as provided by section 28, to pay the commutation thereof (Form 5) personally or by leaving it at the usual place of abode of the person to whom it is directed with a grown up person residing there or by sending it by registered mail addressed to the person to whom it is directed at the post office nearest to his last known place of residence.

Notice to  
perform  
statute  
labour

(2) The notices shall be served not less than six days before the date on which the person liable for statute labour is required to report or to pay exclusive of that date and the date of the service or mailing as the case may be. R.S.O. 1950, c. 372, s. 34.

Time

**35.**—(1) On or before the 1st day of June in the year following that in which default was made, the secretary-treasurer shall make a return (Form 6) to the sheriff of the district showing each lot or parcel of land in respect of which default has been made, the name of the owner or locatee, the amount chargeable at the date of the return and the year for which the amount in arrear was imposed.

Return  
of arrears  
to sheriff

(2) The sheriff shall enter the particulars so furnished in a book to be kept by him for that purpose.

Sheriff to  
keep account  
of arrears

(3) The secretary-treasurer shall not receive any payments on account of such arrears after the expiration of two years from the date specified in the notice (Form 4 or 5), but in the case of payments made within such period the secretary-

Payment of  
arrears not  
to be made  
to secretary-  
treasurer  
after two  
years

treasurer shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him for that purpose.

After two years all arrears to be paid to sheriff

(4) Upon the expiration of the two year period all arrears are payable to the sheriff and the sheriff shall enter every payment in the book kept by him and shall return the amount paid to the secretary-treasurer.

Arrears to bear interest

(5) All arrears bear interest at the rate of 10 per cent per annum. R.S.O. 1950, c. 372, s. 35.

Sale of land by sheriff for arrears

**36.**—(1) Where it appears from the entries in the book kept by the sheriff that any amount chargeable for statute labour is in arrear for three years from the 31st day of December in the year in which the amount became payable, the sheriff shall proceed to collect the amount together with the penalties provided by section 30 and interest as provided by subsection 5 of section 35 and all other lawful charges and costs by the sale of the lands in respect of which the arrears are chargeable and the procedure in relation to the sale and the provisions applicable to deeds, the redemption of lands thereafter and deeds to be given to purchasers shall be the same as nearly as possible as in the case of the sale of lands by the sheriff under section 202 of *The Assessment Act*, being Chapter 272 of the Revised Statutes of Ontario, 1937, for arrears of taxes in organized municipalities in the Provisional Judicial District of Parry Sound, but the commissioners shall not purchase such land.

Notice of adjourned sale

(2) The sheriff shall give notice in the advertisement of an adjourned sale that if no price is offered for any land or any interest therein at the adjourned sale the land or the interest therein of the owner or person liable for the statute labour in arrear may be forfeited to the Crown and if, at the adjourned sale, no price is in fact offered, he shall forthwith notify the Minister of Lands and Forests accordingly giving a description of the land, the name of the owner or person liable for the statute labour in arrear and the amount of the arrears together with any penalties, interest, charges and costs that may be payable in respect thereof.

Forfeiture

(3) Upon notification by the sheriff that no price has been offered for any land or any interest therein at an adjourned sale, the Minister of Lands and Forests may declare the land or the interest therein forfeited to the Crown as provided in *The Provincial Land Tax Act* in the case of land or the interest therein in respect of which the taxes imposed under that Act remain unpaid for a period of two years and the provisions

R.S.O. 1960,  
c. 313



of *The Provincial Land Tax Act* apply *mutatis mutandis* to the land or the interest therein so forfeited. R.S.O. 1960,  
c. 313

(4) Where forfeiture is annulled upon payment to the Minister of Lands and Forests in addition to any amounts payable under *The Provincial Land Tax Act* by reason of the forfeiture, of the amount of the arrears, penalties, interest, charges and costs referred to in subsection 1, the Minister of Lands and Forests shall remit to the secretary-treasurer of the commissioners the amount of such arrears, penalties and interest, and to the Minister of Highways such charges and costs. R.S.O. 1950, c. 372, s. 36. Where  
forfeiture  
annulled  
on payment  
of arrears

**37.** The commissioners, when duly elected, shall serve during the term for which they are elected or shall forfeit the sum of \$5, which may be sued for, together with costs, in any court having jurisdiction by any three electors making the complaint. R.S.O. 1950, c. 372, s. 37. Penalty for  
neglect to  
serve as  
commis-  
sioners

#### RECOVERY OF PENALTIES

**38.** The penalties imposed by this Act are recoverable under *The Summary Convictions Act*. R.S.O. 1950, c. 372, s. 38. Recovery of  
penalties  
R.S.O. 1960,  
c. 387

#### FORM 1

(Section 14)

#### PUBLIC NOTICE

Notice is hereby given that a meeting will be held at (state place) on the.....day of....., 19....., at the hour of.....o'clock in the.....noon to elect Road Commissioners for the Township of.....as provided by *The Statute Labour Act*.

Dated this.....day of....., 19.....

.....  
Caller of Meeting.

R.S.O. 1950, c. 372, Form 1.

#### FORM 2

(Section 21, 31 (2))

#### DECLARATION OF OFFICE

I, ....., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of road commissioner (or secretary-treasurer of the road commissioners) of the Township of .....and that I have not received and I will not receive any payment or reward, or promise thereof for the exercise of any partiality or malversation or other undue execution of the office and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the road commissioners of the Township.

Declared before me this.....)

day of....., 19.....)

A Justice of the Peace.

R.S.O. 1950, c. 372, Form 2.

## FORM 3

(Section 33 (1) )

## STATUTE LABOUR BOOK

TOWNSHIP OF.....19.....

OWNER OR LOCATEE		REAL PROPERTY				STATUTE LABOUR			COMMUTA- TION		ARREARS				PAYMENTS TO SECRETARY- TREASURER				Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	
No.	Name	Address	No. of Conces- sion	No. of Lot	No. of Acres	No. of Acres Cleared	No. of Days Labour	Date Notice to Perform Served	Days Per- formed	Amount at..... Per Day	Amount Paid	Amount Commu- tation or Labour in Default	Penalty	Total Due	Date of Return to Sheriff	Arrears Paid	Interest Paid	Date of Notice to Sheriff	

R.S.O. 1950, c. 372, Form 3.

## FORM 4

(Section 34 (1) )

## NOTICE TO PERFORM STATUTE LABOUR

To.....

TAKE NOTICE that you are hereby required to perform..... days statute labour for which you are liable on (*describe the lot or parcel of land*), and are required to report to....., the commissioner for the district in which your property is situate, at (*state place*) on the..... day of....., 19....., at the hour of.....o'clock in the.....noon and to perform the labour where and as directed by him. Instead of performing the statute labour required of you, you may within six days from the date of this notice, commute therefor by paying to the undersigned the sum of \$..... Should you fail to report and perform the statute labour required of you or to pay the amount of the commutation, proceedings will be taken to collect the amount of the commutation together with interest at 10 per cent per annum. You will also be liable to a penalty recoverable under *The Summary Convictions Act*.

Dated at.....this.....day of....., 19.....

.....  
*Secretary-Treasurer*

Road Commissioners of the Township of.....

R.S.O. 1950, c. 372, Form 4.

## FORM 5

(Section 34 (1) )

NOTICE TO PAY THE COMMUTATION OF  
STATUTE LABOUR

To.....

TAKE NOTICE that you are hereby required to pay to the undersigned the amount of \$.....being the commutation of..... days statute labour at \$.....per day for which you are liable on (*describe the lot or parcel of land*) within six days from the date of this notice.

Should you fail to pay this amount proceedings will be taken to collect it together with interest at 10 per cent per annum. You will also be liable to a penalty recoverable under *The Summary Convictions Act*.

Dated at.....this.....day of....., 19.....

.....  
*Secretary-Treasurer*

Road Commissioners of the Township of.....

Address.....

R.S.O. 1950, c. 372, Form 5.

## FORM 6

(Section 35 (1) )

## RETURN TO SHERIFF

ROAD COMMISSIONERS OF THE TOWNSHIP OF.....  
 TO THE SHERIFF OF.....

TAKE NOTICE that the following owners or locatees have not paid the commutation for which they are liable as  
 set forth opposite their names.

Dated at.....this.....day of....., 19.....

.....  
*Secretary-Treasurer*

Address.....

Name of Owner or Locatee	Description of Lot or Parcel	Number of Acres	Amount of Com- mutation in Default	Year Imposed	Penalty	Total Due	Date Notice to Perform Served	How Notice Served (personally or by mail, if by mail to what address)

R.S.O. 1950, c. 372, Form 6.

## CHAPTER 383

## The Statutes Act

**1.** An Act may be cited and referred to for all purposes by its title, or by its short title, or by a reference to the number of the particular chapter in the revised statutes or in the annual volume of statutes printed by the Queen's Printer. R.S.O. 1950, c. 373, s. 1.

**2.** The following words in an Act indicate the authority by virtue of which it is passed: "Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows". R.S.O. 1950, c. 373, s. 2.

**3.** Any Act may be amended, altered or repealed by an Act passed in the same session of the Legislature. R.S.O. 1950, c. 373, s. 3.

**4.** The Clerk of the Assembly shall endorse on every Act, immediately after the title of the Act, the day, month and year when it was assented to, or reserved by the Lieutenant Governor, and the day, month and year of the prorogation of the session of the Legislature at which it was passed, and, where the Act is reserved, the Clerk shall also endorse thereon the day, month and year when the Lieutenant Governor has signified, either by speech or message to the Assembly or by proclamation, that it was laid before the Governor General in Council and that the Governor General was pleased to assent thereto, and such endorsements shall be taken to be a part of the Act. R.S.O. 1950, c. 373, s. 4.

**5.—(1)** Unless otherwise provided therein, every Act comes into force and takes effect on the sixtieth day after the prorogation of the session of the Legislature at which it was passed or on the sixtieth day after the day of signification, whichever is the later date.

**(2)** Where a session of the Legislature is ended by the dissolution of the Legislature, the date of the dissolution shall for the purposes of this section be deemed to be the date of the prorogation and in every such case the Clerk of the Assembly shall endorse on every Act passed at the session the day, month and year of the dissolution in lieu of the day, month and year of the prorogation.

Proclama-  
tions

(3) Where an Act provides that it is to come into force on a day to be named by the Lieutenant Governor by his proclamation, or that it is not to come into force until a day to be so named, any such proclamation may apply to the whole or any part or parts or portion or portions or section or sections of the Act, and proclamations may be issued at different times as to any part or parts or portion or portions or section or sections of the Act. R.S.O. 1950, c. 373, s. 5.

Printing and  
distribution

**6.** The statutes shall be printed, published and distributed by the Queen's Printer in such manner as is from time to time prescribed by the Lieutenant Governor in Council and approved by resolution of the Assembly. R.S.O. 1950, c. 373, s. 6.

Clerk to  
furnish  
copies of Acts  
to Queen's  
Printer

**7.** The Clerk of the Assembly shall furnish the Queen's Printer with a certified copy of every Act of the Legislature as soon as it has been assented to, or, if the Act has been reserved, as soon as the assent thereto has been signified. R.S.O. 1950, c. 373, s. 7.

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## CHAPTER 384

## The Steam Threshing Engines Act

**1.** Every manufacturer of steam threshing engines shall provide each engine with an efficient spark arrester before selling or disposing of it, and no person shall use or run any steam threshing engine unless it is provided with an efficient spark arrester, and every owner or other person using or running the engine shall keep the spark arrester in proper working order whenever the engine is in use or running. R.S.O. 1950, c. 375, s. 1.

**2.—(1)** Every manufacturer who sells or disposes of a steam threshing engine without an efficient spark arrester is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$20.

**(2)** Every person using or running a steam threshing engine not provided with an efficient spark arrester, or wilfully using or running a steam threshing engine not having a spark arrester in proper working order, is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$20 for every day he so uses the engine. R.S.O. 1950, c. 375, s. 2.

**3.** One-half of any fine recovered under this Act shall be paid to the informer and the other half shall be paid to the treasurer of the municipality in which the offence was tried. R.S.O. 1950, c. 375, s. 3.

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## CHAPTER 385

## The Stock Yards Act

**1.** In this Act,Interpre-  
tation

- (a) "Board" means the Ontario Stock Yards Board;
- (b) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;
- (c) "manager" means the manager appointed under this Act;
- (d) "Minister" means the Minister of Agriculture;
- (e) "regulations" means the regulations made under this Act;
- (f) "securities" includes bonds, debentures and promissory notes. R.S.O. 1950, c. 376, s. 1.

**2.—**(1) The Ontario Stock Yards Board heretofore constituted is continued as a body corporate.

Ontario  
Stock Yards  
Board

(2) The Board shall have a corporate seal in the form prescribed by the regulations.

Seal

(3) The Board shall consist of not more than seven persons appointed by the Lieutenant Governor in Council.

Members  
of Board

(4) The Lieutenant Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman.

Chairman,  
vice-  
chairman

(5) A majority of the members of the Board constitutes a quorum.

Quorum

(6) The members of the Board shall receive such fees and expenses as the Lieutenant Governor in Council determines, and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant Governor in Council determines. R.S.O. 1950, c. 376, s. 2.

Allowances  
and  
expenses

**3.—**(1) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint a manager of any stock yard that it operates and such officers as are prescribed by the regulations and fix their remuneration, and the appointment of any person as a manager or other officer does not disqualify him from acting as chairman, vice-chairman or a member of the Board.

Officers

## Employees

(2) Subject to the approval of the Board, the manager of a stock yard may appoint such employees as he deems necessary and fix their salaries or other remuneration. R.S.O. 1950, c. 376, s. 3.

## Objects

4.—(1) The objects of the Board are,

- (a) to acquire, construct, equip and operate live-stock markets, and to acquire and operate such facilities for the transportation of live stock as may be necessary for the purposes of such markets; and
- (b) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

Power to  
borrow  
money and  
issue  
securities

(2) The Board has power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board determines.

General  
powers  
R.S.O. 1960,  
c. 71

(3) The Board has the powers set out in sections 22 and 288 of *The Corporations Act*. R.S.O. 1950, c. 376, s. 4.

Acquiring  
land, etc.

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board,

- (a) has power to acquire by purchase, lease or in any other manner or without the consent of the owner thereof to enter upon, take possession of, expropriate and use,
  - (i) the land, property, assets and undertakings of Union Stock Yards of Toronto, Limited,
  - (ii) the land, property, assets and undertakings of any other stock yards,
  - (iii) any other land or property that it deems necessary for its undertakings; and
- (b) has and may exercise and enjoy in addition to the powers conferred by this Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act* and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act, they, where the context permits, mean the Board.

R.S.O. 1960,  
c. 338

Mode of  
perfecting  
title

(2) Upon the deposit in the proper registry or land titles office of a plan and description of the land acquired by the Board, signed by the chairman of the Board and by an Ontario

land surveyor, the land so described thereupon vests in the Board.

(3) Except as otherwise provided in this Act, the Board shall, in the exercise of its compulsory powers authorized by this section, proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation apply *mutatis mutandis*. Procedure R.S.O. 1960, c. 338

(4) No action or proceeding of the Board taken pursuant to this section shall be restrained by injunction or process or proceeding in any court. Exercise of powers not to be enjoined R.S.O. 1950, c. 376, s. 5.

**6.**—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Board, and repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board. Guarantee by Province

(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council. Form of guarantee R.S.O. 1950, c. 376, s. 6.

**7.**—(1) All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to, Application of moneys

- (a) operating expenses;
- (b) payment of interest on indebtedness; and
- (c) repayment of principal moneys borrowed.

(2) Any surplus moneys shall be paid to the Treasurer of Ontario and deposited in the Consolidated Revenue Fund, and shall constitute a fund known as the Live-stock Improvement Fund appearing on the books of the Treasurer of Ontario as the Live-stock Improvement Fund. Surplus moneys

(3) The Live-stock Improvement Fund is available for the purposes of the improvement of live stock and for such purpose the Minister may, with the approval of the Lieutenant Governor in Council, direct payment out of the Fund of such amounts to such persons or organizations as he deems proper. Payments out of Fund R.S.O. 1950, c. 376, s. 7.

**8.** The Board shall, not later than the 31st day of January in every year, make an annual report to the Minister upon its operations during the preceding year and such report shall be laid before the Assembly as soon as may be. Annual report of Board R.S.O. 1950, c. 376, s. 8.

## Audit

**9.** The books and accounts of the Board shall be audited and checked from time to time by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates and the auditor shall make an annual report to the Treasurer of Ontario. R.S.O. 1950, c. 376, s. 9.

Authority  
to sue and  
be sued

**10.** The Board may be sued and may institute or defend proceedings in any court. R.S.O. 1950, c. 376, s. 10.

## Taxation

**11.** The real and personal property, business and income of the Board are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. R.S.O. 1950, c. 376, s. 11; 1952, c. 66, s. 9 (1).

Operation  
of stock  
yards

**12.** No person, other than the Board, shall construct, maintain or operate any stock yard or any premises where live stock is assembled for the purpose of sale either directly or indirectly to an abattoir, packing house or slaughter house except with the approval of the Board, but this section does not apply to any such stock yard or premises that was so operated on the 12th day of May, 1944, so long as such stock yard or premises is not extended or enlarged. R.S.O. 1950, c. 376, s. 12.

## Regulations

**13.** Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing the officers of the Board and prescribing the powers and duties of such officers and of any manager;
  - (b) prescribing the form of the seal of the Board;
  - (c) limiting or regulating the objects and powers of the Board or the exercise thereof;
  - (d) prescribing the records, books and accounts to be kept by the Board;
  - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 376, s. 13.
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## CHAPTER 386

## The Succession Duty Act

## 1. In this Act,

Interpre-  
tation

## (a) "aggregate value" means,

- (i) the value at the date of death of the deceased of the property wherever situate passing on his death, and
- (ii) the value of all dispositions wherever made, where such dispositions are made on or after the 1st day of July, 1892,

less the debts, encumbrances and other allowances authorized by subsection 5 of section 3 and less the exemptions authorized by section 5;

## (b) "beneficial interest" includes any ownership and any interest other than that of a trustee or executor, and any expression of like import has a like meaning;

## (c) "business" means a partnership, firm, syndicate or other unincorporated organization; R.S.O. 1950, c. 378, s. 1, cls. (a-c).

## (d) "child" means,

- (i) a legitimate child of the deceased,
- (ii) a person adopted by the deceased,
- (iii) a person to whom the deceased or the spouse of the deceased stood *in loco parentis* during the infancy of such person, and the deceased while married to such spouse shall be deemed to have stood *in loco parentis* to a legitimate child of such spouse and to a person adopted by such spouse, or
- (iv) a legitimate lineal descendant of any person mentioned in subclause i, ii or iii; 1959, c. 95, s. 1; 1960, c. 114, s. 1.

## (e) "company" means a corporation or other incorporated organization; R.S.O. 1950, c. 378, s. 1, cl. (e).

## (f) "disposition" means,

- (i) any means whereby any property passes or is agreed to be passed, directly or indirectly, from the deceased during his lifetime to any person,
- (ii) any means whereby any person is benefited, directly or indirectly, by any act of the deceased during the lifetime of the deceased,
- (iii) any allocation, assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer or waiver of or any agreement to allocate, assign, deliver, dispatch, give, mail, pay, release, send, surrender, transfer or waive, during the lifetime of the deceased, any property of any business or company in which the interest of the deceased or his agent or nominee was at the time of such allocation, assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer, waiver or agreement, alone or added to that of any member of the family of the deceased, more than 50 per cent, directly or indirectly, of the whole, or any property of any business or company in which the interest of any such first-mentioned business or company was more than 50 per cent, directly or indirectly, of the whole,
- (iv) any payment during the lifetime of the deceased to any person as a result of the creation of a trust by the deceased, except of such portion of the income paid to such person which is in the same ratio to all the income paid to such person that the amount of the value of the property which by the terms of the trust is or will be paid or transferred to or for the benefit of such person bears to the amount of the value of all the property,
- (v) any payment to or enjoyment by any person during the lifetime of the deceased as a result of any assignment, giving, release, surrender, transfer or waiver of or agreement to assign, give, release, surrender, transfer or waive by the deceased, any right to receive payment of any annuity or income or the right to enjoy any estate or interest for life or term of years, or
- (vi) any payment during the lifetime of the deceased to any person as a result of any

arrangement effected by the deceased in his lifetime for any annuity, income or other periodic payment, exclusive of the payment of any income derived from any property in which such person had the beneficial interest,

without consideration in money or money's worth or for partial consideration in money or money's worth to the extent by which the value of the property or benefit exceeds the value of such partial consideration, and such means includes,

- (vii) any assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer or waiver of any property,
- (viii) any agreement to assign, deliver, dispatch, give, mail, pay, release, send, surrender, transfer or waive any property,
- (ix) any creation of trust, and
- (x) any contribution of any property of the deceased to a joint tenancy where the deceased is one of the joint tenants, to the extent of the value of the property or part of the property taken or converted during the lifetime of the deceased by any of the other joint tenants for the use or benefit of such other joint tenant,

provided that marriage shall not be deemed to constitute consideration for any disposition; R.S.O. 1950, c. 378, s. 1, cl. (f); 1954, c. 90, s. 1 (1).

- (g) "dutiable value" of any property situate in Ontario passing on the death of the deceased, "dutiable value" of a transmission, or "dutiable value" of a disposition made in Ontario, means, respectively, the value of such property at the date of death of the deceased, the value of such transmission, and the value of such disposition, after allowance has been made for the debts, encumbrances and other allowances authorized by and in accordance with subsection 5 of section 3;
- (h) "executor" includes administrator and administrator with the will annexed;
- (i) "interest in expectancy" includes an estate, income or interest, in remainder or reversion and any other future interest whether vested or contingent, but does not include a reversion expectant upon the determination of a lease;

R.S.O. 1960,  
c. 53

- (j) "member of the family" and any expression of like import means,
  - (i) a child,
  - (ii) a son-in-law or daughter-in-law of the deceased,
  - (iii) a person adopted under *The Child Welfare Act* by the deceased or the spouse or any lawful descendant of such person,
  - (iv) the husband or wife of the deceased,
  - (v) the father, mother or any brother or sister of the deceased or any lawful descendant of any such brother or sister,
  - (vi) any brother or sister of the father or mother of the deceased or any lawful descendant of any such brother or sister,
  - (vii) the father, mother or any brother or sister of the husband or wife of the deceased or any lawful descendant of any such brother or sister, or
  - (viii) any grandfather or grandmother of the deceased;
- (k) "money" includes a bill of exchange, cheque, deposit receipt, interest coupon, money order, promissory note and any other like instrument;
- (l) "passing on the death" means passing either immediately on the death or after an interval, either certainly or contingently and either originally or by way of substitutive limitation;
- (m) "person to whom a disposition is made" and any expression of like import means person who benefits by a disposition;
- (n) "person to whom there is a transmission" and any expression of like import means a person who benefits by a transmission;
- (o) "property in respect of which a disposition is made" and any expression of like import includes any property into which such property has become directly or indirectly converted and any property which, exclusive of income, has been derived from such property; R.S.O. 1950, c. 378, s. 1, cls. (g-o).
- (p) "property passing on the death of the deceased" is deemed to include,



- (i) any property held jointly by the deceased and one or more persons and payable to or passing to the survivor or survivors, except that part of such property which is shown to the satisfaction of the Treasurer to have been contributed by the survivor or survivors, provided that where the joint tenancy or holding is created by a person other than the deceased and the survivor or survivors, such property shall be deemed to have been contributed to equally by the deceased and the survivor or equally by the deceased and each of the survivors,
- (ii) any annuity, income or other interest purchased or in any manner provided by the deceased either by himself alone or in concert or by arrangement with any other person to the extent of the interest therein accruing or arising on the death of the deceased,
- (iii) that portion of the money payable as a result of the death of the deceased under a contract of insurance as is in the same ratio to the whole that the amount of the premiums paid by the deceased on such contract bears to the total amount of the premiums paid,
- (iv) the interest of the deceased in a contract of insurance that provides for the payment of money as a result of the death of a person other than the deceased,
- (v) any money payable as the result of the death of the deceased under a contract of insurance to any business or company by which the deceased was employed or with which he was associated or in which he was interested, to the extent of any part of such money not paid to or paid to and not thenceforward retained by such business or company for its own use and benefit,
- (vi) that portion of the interest of any business or company mentioned in subclause v in a contract of insurance that provides for the payment of money as a result of the death of a person other than the deceased, which is paid to any member of the family of the deceased,
- (vii) any property over which the deceased had at the time of his death a general power of

appointment either by instrument *inter vivos* or by will or both, including the powers exercisable by a tenant in tail whether in possession or not, but exclusive of any power exercisable in a fiduciary capacity not created by the deceased, or as mortgagee, and whether or not concurrence of any other person is required, and provided that money that the deceased has a general power to charge on property shall be deemed to be property of which he has the power to dispose,

- (viii) any property passing under any past or future settlement, including any trust, whether expressed in writing or otherwise and if contained in a deed or other instrument effecting the settlement, whether such deed or other instrument was made for valuable consideration or not, as between the settlor and any other person, made by deed or other instrument not taking effect as a will, whereby an interest in such property or the proceeds of sale thereof for life, or any other period determinable by reference to death, is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power to restore to himself, or to reclaim the absolute interest in such property, or the proceeds of sale thereof, or to otherwise resettle the same or any part thereof,
- (ix) any property in respect of which a disposition is made in Ontario on or after the 1st day of July, 1892, to any person who is not resident in Ontario at the date of death of the deceased, that at the date of death of the deceased was situate in Ontario and was owned by the person to whom such disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth.
- (x) any property in respect of which a disposition is made outside Ontario on or after the 1st day of July, 1892, that at the date of death of the deceased was situate in Ontario and was owned by the person to whom such disposition

is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth, and where the deceased was domiciled in Ontario at the time the disposition was made and at the date of his death,

- (xi) any right, interest or estate in dower or by curtesy to which the wife or husband of the deceased may be entitled,
  - (xii) any right that any person had at the time of death of the deceased under an agreement made by the deceased during his lifetime whereby such person agreed to purchase after the death of the deceased any property of the deceased or any property over which the deceased had any means of control, at a fixed price or at a price to be fixed, where the value of the consideration for the agreement to purchase, including the price so fixed, is less than the value, at the time of the agreement and at the date of death of the deceased, of the property, and
  - (xiii) any right that any person had at the time of death of the deceased under an agreement made by the deceased during his lifetime, to exercise after the death of the deceased, an option to purchase any property of the deceased or any property over which the deceased had any means of control, at a fixed price or at a price to be fixed, where the value of the consideration for the purchase of the property, including the price so fixed, is less than the value, at the date of death of the deceased, of the property; R.S.O. 1950, c. 378, s. 1, cl. (p); 1951, c. 84, s. 1.
- (q) "regulations" means the regulations made under this Act;
  - (r) "security" includes bonds, debentures, guaranteed investments, shares, stocks, rights to subscribe for or purchase shares or stocks, rights to royalties, syndicate units and anything designated as a security by the regulations; R.S.O. 1950, c. 378, s. 1, cls. (q, r).
  - (s) "transmission" means the passing on the death of any person domiciled in Ontario to any person resident or domiciled in Ontario at the date of death of

the deceased, of any personal property situate outside Ontario at the date of such death including such of the personal property mentioned in subclauses i to viii, xii and xiii of clause *p* as is situate outside Ontario at such date; R.S.O. 1950, c. 378, s. 1, cl. (s); 1954, c. 90, s. 1 (2).

- (t) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 378, s. 1, cl. (t).

Property  
passing on  
the death  
of deceased,  
meaning

2. For the purposes of this Act, the property mentioned in subclauses i to xiii inclusive of clause *p* of section 1 shall be deemed to pass on the death of the deceased and accordingly shall be deemed to be property passing on the death of the deceased or that passes on his death in addition to any other property passing on the death of the deceased or that passes on his death. 1954, c. 90, s. 2.

Values

3.—(1) For the purposes of this Act,

- (a) the value of any security that is listed on any stock exchange, or if not so listed, on which a price or quotation is obtainable from financial journals, recognized financial reports or registered brokers, is the closing price or quotation of such security on the day as of which such value is to be determined, or if there is no closing price or quotation on such day, then on the last preceding day on which there is a closing price or quotation, provided that this clause does not apply where there is not a sufficiently widespread distribution of the securities of which such security forms a part to reflect the true value thereof in such price or quotation, or where such price or quotation is or may be the result of any manipulation or any exercise of any means of influence or control;
- (b) the value of a disposition is the value at the date of death of the deceased of the property in respect of which such disposition is made, provided that,
  - (i) if such property has been sold for or converted into money during the lifetime of the deceased, the amount of such money is the value of such disposition,
  - (ii) if the disposition is of money, the amount of such money is the value of such disposition,
  - (iii) if the disposition is a remission of a debt, the amount of such debt at the date of such remission is the value of such disposition, and
  - (iv) if the disposition is a disposition of the right to enjoy as mentioned in subclause v of clause

*f* of section 1, the value of such right as at the date of such disposition is the value of such disposition;

- (c) the value of a transmission is the value at the date of death of the deceased of the property in respect of which there is a transmission;
- (d) the value of the right mentioned in subclause xii of clause *p* of section 1 is an amount equal to the difference between the value of the consideration for the agreement to purchase, including the price so fixed, and the value of the property at the date of death of the deceased, and where the value of the property has varied between the time of the agreement and the date of death of the deceased, the value of the consideration shall be deemed to vary in like proportion; and
- (e) the value of the right mentioned in subclause xiii of clause *p* of section 1 is an amount equal to the difference between the value of the property at the date of death of the deceased and the value of the consideration for the purchase of the property, including the price so fixed. R.S.O. 1950, c. 378, s. 2 (1); 1951, c. 84, s. 2.

(2) In valuing any security, or any business or any interest in any business, the fact that any tax under the *Income Tax Act* (Canada) or any similar tax may be or become payable by reason of or in respect of the payment or distribution of any accumulated surplus or other property to the holder of such security or to any person having an interest in such business, shall not be taken into consideration, unless and to the extent only that such distribution is necessary and is made for the purpose of raising money for the payment of duty.

Income tax  
R.S.C. 1952,  
c. 148

(3) In valuing any property in respect of which a disposition is made,

Variance in  
value of  
property

- (a) where such property was subject to encumbrance at the time such disposition was made and such encumbrance is in existence at the date of death of the deceased; or
- (b) where there was partial consideration as mentioned in clause *f* of section 1,

and the value of such property has varied between the time such disposition was made and the date of such death, the value or amount of such encumbrance or the value or amount of such partial consideration shall be deemed to vary in like proportion.

Valuation of annuities, etc.

(4) Every annuity, term of years, life estate, income or other estate and any interest in expectancy shall be valued according to such rule, method and standard of mortality and of value and at such rate of interest as the Lieutenant Governor in Council may determine.

Aggregate value and dutiable value

(5) In determining aggregate value and in determining dutiable value, allowance shall be made for reasonable funeral expenses for the deceased, for debts and encumbrances incurred or created by the deceased *bona fide* and for full consideration in money or money's worth wholly for his own use and benefit, for surrogate court fees and for solicitor's fees for obtaining probate or letters of administration to an amount not exceeding \$100, and all debts and encumbrances for which allowance is made shall be deducted from the value of the land or other subject of property liable thereto, but allowance shall not be made,

- (a) for any debt in respect of which there is a right to reimbursement except such part thereof for which reimbursement cannot be obtained;
- (b) more than once for the same debt or encumbrance charged upon different properties;
- (c) save as aforesaid, for the expense of the administration of the property or the execution of any trust created by the will of the deceased or by any instrument made by him during his lifetime;
- (d) for any debt or encumbrance or any part thereof which by due process of law cannot be realized out of any property;
- (e) for any wages, salaries or other remuneration due by the deceased to any member of his family, except such part of such wages, salaries or other remuneration as the Treasurer may deem reasonable and proper;
- (f) for any part of any debt not actually and *bona fide* paid or intended to be paid;
- (g) for any debt not recoverable by reason of *The Limitations Act* or any other statute of limitations. R.S.O. 1950, c. 378, s. 2 (2-5).

R.S.O. 1960, c. 214

Where no duty to be levied

#### 4. No duty shall be levied on,

- (a) any property situate in Ontario passing on the death of the deceased to any one person where the value of all the property so passing to such person does not exceed \$500;

- (b) any person to whom there is a transmission, with respect to such transmission, where the value of all transmissions to such person does not exceed \$500;
- (c) any person to whom a disposition is made, with respect to such disposition, where the value of all dispositions to such person does not exceed \$500;
- (d) any property situate in Ontario passing on the death of the deceased to any one person where such property consists wholly of an annuity not exceeding \$100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed \$100;
- (e) any person to whom there is a transmission, with respect to such transmission, where all the property in respect of which there are transmissions to such person consists wholly of an annuity not exceeding \$100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed \$100;
- (f) any person to whom a disposition is made, with respect to such disposition, where all the property in respect of which dispositions to such person are made consists wholly of an annuity not exceeding \$100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed \$100;
- (g) any property situate in Ontario passing on the death of the deceased to any one of the persons to whom subsection 5 of section 7 applies, such person to whom there is a transmission and such person to whom any disposition is made, where the value of all such property, transmissions and dispositions does not exceed \$1,000, provided such person was in the employ of the deceased for a period of at least five years immediately prior to the death of the deceased;  
or
- (h) where the deceased was domiciled outside Ontario at the date of his death,
  - (i) any interest of the deceased in any contract of insurance within the meaning of *The Insurance Act*, <sup>R.S.O. 1960, c. 190</sup>
  - (ii) any money payable as a result of the death of the deceased under any contract of insurance within the meaning of *The Insurance Act*, or

- (iii) any interest by way of annuity or otherwise accruing or arising on the death of the deceased under any contract of insurance within the meaning of *The Insurance Act*;

provided that,

- (i) the total amount in respect of which no duty shall be levied under clauses *a*, *b* and *c* shall not exceed \$500;
- (j) the total amount in respect of which no duty shall be levied under clauses *d*, *e* and *f* shall not exceed an annuity or yearly income of \$100; and
- (k) where by reason of clauses *d*, *e* and *f* no duty is levied, clauses *a*, *b* and *c* do not apply. R.S.O. 1950, c. 378, s. 3; 1957, c. 116, s. 1.

Where no duty to be levied and what not to be included in aggregate value

5.—(1) No duty shall be levied on any of the following property, nor on any person to whom there are any transmissions of any of the following property, with respect to such transmissions, nor on any person to whom any of the following dispositions are made, with respect to such dispositions, and such property and dispositions shall not be included in the aggregate value nor included for the purpose of determining any rate of duty,

- (a) any disposition for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work solely in Ontario;
- (b) any property devised or bequeathed by the deceased for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work solely in Ontario;
- (c) any disposition for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work both in and outside Ontario to the extent of that portion in value of the property in respect of which the disposition is made as is in the same ratio to the whole that its expenditures for carrying on its work in Ontario bear to its total expenditures during such period as the Treasurer may determine;
- (d) that portion of any property devised or bequeathed by the deceased for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work both in



and outside Ontario as is in the same ratio to the whole that its expenditures for carrying on its work in Ontario bear to its total expenditures during such period as the Treasurer may determine;

- (e) any property devised or bequeathed by the deceased to and any disposition to the United Kingdom of Great Britain and Northern Ireland, the Dominion of Canada, the Province of Ontario or any municipality in Ontario;
- (f) any disposition for necessities or education to or for any member of the family of the deceased where it is shown to the satisfaction of the Treasurer that such member was dependent in whole or in part on the deceased for such necessities or education; R.S.O. 1950, c. 378, s. 4 (1), cls. (a-f).
- (g) any disposition where actual and *bona fide* enjoyment and possession of the property in respect of which the disposition is made, was assumed more than five years before the date of death of the deceased by the person to whom the disposition is made, or by a trustee for such person, and thenceforward retained to the entire exclusion of the deceased or of any benefit to him whether voluntary or by contract or otherwise; 1951, c. 84, s. 3.
- (h) any non-commutable annuity, income or periodic payment effected in any manner other than by will or testamentary instrument and paid for by the deceased during his lifetime, and paid to or enjoyed by the wife or dependent father or mother or any dependent brother, sister or child of the deceased after the death of the deceased, to the extent of \$1,200 per annum with respect to any one person and to the extent of \$2,400 per annum in the aggregate;
- (i) any property devised or bequeathed by the deceased to and any disposition to The Canadian National Institute for the Blind, The Canadian Red Cross Society or any patriotic organization or institution in Canada that receives the written approval of the Secretary of State of Canada; and
- (j) any property passing on the death of the deceased to any religious, charitable or educational organization for religious, charitable or educational purposes carried out in any province of Canada other than Ontario which is shown to the satisfaction of the Treasurer to allow the same exemption on property, given, devised or bequeathed to any religious,

charitable or educational organization for religious, charitable or educational purposes carried out in Ontario. R.S.O. 1950, c. 378, s. 4 (1), cls. (i-k).

Meaning of religious, charitable, educational

(2) For the purposes of subsection 1, the Treasurer may in his absolute discretion determine whether any purpose or organization is a religious, charitable or educational purpose or organization within the meaning of clause *a*, *b*, *c*, *d* or *j* of subsection 1. R.S.O. 1950, c. 378, s. 4 (2).

"Canada" substituted for "Ontario", religious organizations

(3) Notwithstanding anything in this section, clauses *a*, *b*, *c* and *d* of subsection 1 in so far as they apply to religious and educational organizations apply to such organizations as if the word "Canada" were substituted for the word "Ontario" wherever it appears in such clauses. R.S.O. 1950, c. 378, s. 4 (3); 1952, c. 102, s. 1.

Charitable organizations

(4) Where a charitable organization makes any payment for religious or educational purposes to any religious or educational organization that carries on its work solely in Canada, it shall not merely by reason of making such payment be deemed to carry on its work outside Ontario and such payment shall not be deemed to be an expenditure for carrying on its work. 1953, c. 100, s. 1.

What duty levied on

**6.** Subject to sections 4 and 5, on the death of any person whether he dies domiciled in Ontario or elsewhere,

- (a) where any property situate in Ontario passes on his death, duty shall be levied on such property in accordance with the dutiable value thereof;
- (b) where there is any transmission, duty shall be levied on the person to whom there is such transmission, with respect to such transmission, in accordance with the dutiable value thereof;
- (c) where any disposition, other than of realty situate outside Ontario, is made in Ontario on or after the 1st day of July, 1892, to any person who is resident in Ontario at the date of death of the deceased, duty shall be levied on such person, with respect to such disposition, in accordance with the dutiable value thereof;
- (d) where any disposition of any personal property is made outside Ontario on or after the 8th day of March, 1937, to any person who is resident in Ontario at the time such disposition is made and at the date of death of the deceased and the deceased was domiciled in Ontario at the time such disposition is made and at the date of his death, duty shall be levied on

the person to whom such disposition is made, with respect to such disposition, in accordance with the value thereof; provided that this clause shall not apply if, at the date of death of the deceased, the property in respect of which the disposition is made was both situate in Ontario and was owned by the person to whom the disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth. R.S.O. 1950, c. 378, s. 5.

7.—(1) The duty levied by this Act on the proportion of <sup>Rates of duty, preferred</sup> the property passing on the death of the deceased to or for the benefit of the father, mother, husband, wife or a grandfather, grandmother, child, son-in-law or daughter-in-law of the deceased, and the duty levied on the father, mother, husband, wife or a grandfather, grandmother, child, son-in-law or daughter-in-law of the deceased, shall be at the following rates:

Where the aggregate value,

- (a) exceeds \$50,000 and does not exceed \$75,000— $2\frac{1}{2}$  per cent plus  $\frac{4}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$50,000;
- (b) exceeds \$75,000 and does not exceed \$100,000— $3\frac{1}{2}$  per cent plus  $\frac{6}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$75,000;
- (c) exceeds \$100,000 and does not exceed \$150,000—5 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$100,000;
- (d) exceeds \$150,000 and does not exceed \$200,000— $5\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$150,000;
- (e) exceeds \$200,000 and does not exceed \$300,000—6 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$300,000 and does not exceed \$400,000— $6\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$300,000;
- (g) exceeds \$400,000 and does not exceed \$500,000—7 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (h) exceeds \$500,000 and does not exceed \$600,000— $7\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$500,000;

- (i) exceeds \$600,000 and does not exceed \$700,000—8 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (j) exceeds \$700,000 and does not exceed \$800,000— $8\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$700,000;
- (k) exceeds \$800,000 and does not exceed \$900,000—9 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$800,000;
- (l) exceeds \$900,000 and does not exceed \$1,000,000— $9\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$900,000;
- (m) exceeds \$1,000,000 and does not exceed \$5,000,000—10 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$10,000 by which the aggregate value exceeds \$1,000,000;
- (n) exceeds \$5,000,000—14 per cent,

and the duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any one of such persons and the duty levied on such person, shall be at the following additional rates:

Where the amount of the value of all the property which so passes and of the value of all transmissions to and dispositions made to such person, after making allowance for the debts, encumbrances and other allowances authorized by and in accordance with subsection 5 of section 3,

- (aa) exceeds \$50,000 and does not exceed \$75,000— $11\frac{1}{2}$  per cent plus  $\frac{2}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$50,000;
- (bb) exceeds \$75,000 and does not exceed \$100,000—2 per cent plus  $\frac{2}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$75,000;
- (cc) exceeds \$100,000 and does not exceed \$150,000— $21\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$100,000;
- (dd) exceeds \$150,000 and does not exceed \$300,000—3 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$3,000 by which the amount exceeds \$150,000;
- (ee) exceeds \$300,000 and does not exceed \$400,000— $31\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$300,000;

- (ff) exceeds \$400,000 and does not exceed \$500,000— $4\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$400,000;
- (gg) exceeds \$500,000 and does not exceed \$600,000—5 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$500,000;
- (hh) exceeds \$600,000 and does not exceed \$700,000— $5\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$600,000;
- (ii) exceeds \$700,000 and does not exceed \$750,000—6 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$700,000;
- (jj) exceeds \$750,000 and does not exceed \$800,000— $6\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$750,000;
- (kk) exceeds \$800,000 and does not exceed \$900,000—7 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$800,000;
- (ll) exceeds \$900,000 and does not exceed \$1,000,000— $7\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$900,000;
- (mm) exceeds \$1,000,000 and does not exceed \$1,200,000—8 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$1,000,000;
- (nn) exceeds \$1,200,000 and does not exceed \$1,400,000— $8\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$1,200,000;
- (oo) exceeds \$1,400,000 and does not exceed \$1,600,000—9 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$1,400,000;
- (pp) exceeds \$1,600,000 and does not exceed \$1,800,000— $9\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$1,600,000;
- (qq) exceeds \$1,800,000 and does not exceed \$2,000,000—10 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$1,800,000;
- (rr) exceeds \$2,000,000 and does not exceed \$2,200,000— $10\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$2,000,000;
- (ss) exceeds \$2,200,000 and does not exceed \$2,400,000—11 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$2,200,000;

- (tt) exceeds \$2,400,000 and does not exceed \$2,600,000—12 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$2,400,000;
- (uu) exceeds \$2,600,000 and does not exceed \$2,800,000—13 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$2,600,000;
- (vv) exceeds \$2,800,000 and does not exceed \$3,000,000—14 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$2,800,000; and
- (ww) exceeds \$3,000,000—15 per cent. R.S.O. 1950, c. 378, s. 6 (1).

No duty to be levied on a dependant under certain circumstances

(2) Notwithstanding subsection 1, no duty shall be levied on any property situate in Ontario passing on the death of the deceased to or for the benefit of a dependant or on him,

- (a) where the sum of the value of the property passing on the death of the deceased to or for the benefit of dependants and of the value of all dispositions to them, that do not come within clause g of subsection 1 of section 5, does not exceed the dependants' allowance; or
- (b) where the sum of the value of the property passing on the death of the deceased to him or for his benefit and of the value of all dispositions to him, that do not come within clause g of subsection 1 of section 5, does not exceed the individual dependant allowance.

Duty levied on a dependant to be reduced—notch clause

(3) The duty levied on property passing on the death of the deceased to or for the benefit of a dependant and on him shall be reduced to an amount equal to,

- (a) the portion of the amount by which the sum of the value of the property passing on the death of the deceased to or for the benefit of dependants and of the value of all dispositions to them, that do not come within clause g of subsection 1 of section 5, exceeds the dependants' allowance, as is in the same ratio to the whole that the duty levied on property passing to or for the benefit of such dependant and on him bears to the duty levied on property passing to or for the benefit of all dependants and on them; or
- (b) the amount by which the sum of the value of the property passing on the death of the deceased to or for the benefit of such dependant and of all dispositions to him, that do not come within clause g of subsection 1 of section 5, exceeds the individual dependant allowance,

whichever is the lesser. 1959, c. 95, s. 2. (1).

(4) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of a lineal ancestor of the deceased except the grandfather, grandmother, father or mother, or to or for the benefit of a brother or sister of the deceased or any descendant of any such brother or sister or a brother or sister of the father or mother of the deceased or any descendant of any such brother or sister, and the duty levied on a lineal ancestor of the deceased except the grandfather, grandmother, father or mother, or on a brother or sister of the deceased or any descendant of any such brother or sister, or on a brother or sister of the father or mother of the deceased or any descendant of any such brother or sister, shall be at the following rates: <sup>Rates of duty, collaterals</sup>

Where the aggregate value,

- (a) exceeds \$20,000 and does not exceed \$30,000—6 per cent plus  $\frac{10}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$20,000;
- (b) exceeds \$30,000 and does not exceed \$60,000—7 per cent plus  $\frac{10}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$30,000;
- (c) exceeds \$60,000 and does not exceed \$100,000—10 per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$60,000;
- (d) exceeds \$100,000 and does not exceed \$200,000—12 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$100,000;
- (e) exceeds \$200,000 and does not exceed \$400,000—13 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$200,000;
- (f) exceeds \$400,000 and does not exceed \$600,000—14 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$400,000;
- (g) exceeds \$600,000 and does not exceed \$800,000—15 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (h) exceeds \$800,000 and does not exceed \$1,000,000—16 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$800,000;
- (i) exceeds \$1,000,000—17 per cent,

and the duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any one of such persons and the duty levied on such person, shall be at the following additional rates:

Where the amount of the value of all the property which so passes and of the value of all transmissions to and dispositions made to such person, after making allowance for the debts, encumbrances and other allowances authorized by and in accordance with subsection 5 of section 3,

- (aa) exceeds \$10,000 and does not exceed \$60,000— $2\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$10,000 whether or not the rate mentioned in clause *a* applies;
- (bb) exceeds \$60,000 and does not exceed \$160,000—3 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$60,000;
- (cc) exceeds \$160,000 and does not exceed \$200,000— $3\frac{1}{2}$  per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$4,000 by which the amount exceeds \$160,000;
- (dd) exceeds \$200,000 and does not exceed \$300,000—4 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$200,000;
- (ee) exceeds \$300,000 and does not exceed \$350,000— $4\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$300,000;
- (ff) exceeds \$350,000 and does not exceed \$450,000—5 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$350,000;
- (gg) exceeds \$450,000 and does not exceed \$500,000— $5\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$450,000;
- (hh) exceeds \$500,000 and does not exceed \$600,000—6 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$500,000;
- (ii) exceeds \$600,000 and does not exceed \$700,000— $6\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$600,000;
- (jj) exceeds \$700,000 and does not exceed \$800,000—7 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$700,000;
- (kk) exceeds \$800,000 and does not exceed \$900,000— $7\frac{1}{2}$  per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$2,000 by which the amount exceeds \$800,000;
- (ll) exceeds \$900,000 and does not exceed \$1,000,000—8 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$1,000 by which the amount exceeds \$900,000;



(mm) exceeds \$1,000,000 and does not exceed \$1,500,000—9 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$5,000 by which the amount exceeds \$1,000,000;

(nn) exceeds \$1,500,000 and does not exceed \$2,000,000—10 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$5,000 by which the amount exceeds \$1,500,000;

(oo) exceeds \$2,000,000 and does not exceed \$2,500,000—11 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$5,000 by which the amount exceeds \$2,000,000;

(pp) exceeds \$2,500,000 and does not exceed \$3,000,000—12 per cent plus  $\frac{1}{100}$  of 1 per cent for each full \$5,000 by which the amount exceeds \$2,500,000; and

(qq) exceeds \$3,000,000—13 per cent. R.S.O. 1950, c. 378, s. 6 (2); 1959, c. 95, s. 2 (2, 3).

(5) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any person other than those to whom subsections 1 and 4 apply, and the duty levied on any person other than those to whom subsections 1 and 4 apply, shall be at the following rates: Rates of  
duty,  
strangers

Where the aggregate value,

(a) exceeds \$5,000 and does not exceed \$10,000— $7\frac{1}{2}$  per cent plus 1 per cent for each full \$1,000 by which the aggregate value exceeds \$5,000;

(b) exceeds \$10,000 and does not exceed \$50,000— $12\frac{1}{2}$  per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$800 by which the aggregate value exceeds \$10,000;

(c) exceeds \$50,000 and does not exceed \$100,000—15 per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$1,000 by which the aggregate value exceeds \$50,000;

(d) exceeds \$100,000 and does not exceed \$200,000— $17\frac{1}{2}$  per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$100,000;

(e) exceeds \$200,000 and does not exceed \$300,000—20 per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$200,000;

(f) exceeds \$300,000 and does not exceed \$400,000— $22\frac{1}{2}$  per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$300,000;

(g) exceeds \$400,000 and does not exceed \$500,000—25 per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$400,000;

- (h) exceeds \$500,000 and does not exceed \$600,000— $27\frac{1}{2}$  per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$500,000;
- (i) exceeds \$600,000 and does not exceed \$700,000—30 per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$600,000;
- (j) exceeds \$700,000 and does not exceed \$800,000— $32\frac{1}{2}$  per cent plus  $\frac{5}{100}$  of 1 per cent for each full \$2,000 by which the aggregate value exceeds \$700,000; and
- (k) exceeds \$800,000—35 per cent.

## Surtax

(6) A surtax of 15 per cent of the amount ascertained according to subsection 1, of 20 per cent of the amount ascertained according to subsection 4 and of 25 per cent of the amount ascertained according to subsection 5, shall be levied, added to and paid with such respective amounts as duty. R.S.O. 1950, c. 378, s. 6 (3, 4).

## Reduction

(7) Where,

- (a) any of the property to which clause *a* of section 1 applies passes to or for the benefit of any person or persons mentioned in subsection 1 and any of the dispositions to which clause *a* of section 1 applies are made to him or them; and
- (b) duty is levied on the proportion of the property so passing to or for the benefit of such person or persons and on him or them and such duty is payable by him or them; and
- (c) the amount of the duty levied on the proportion of such property so passing to or for the benefit of any one of such persons and on him is greater than an amount equal to the amount obtained by,
  - (i) multiplying the amount by which the aggregate value exceeds \$50,000 by the sum of the amount of the value of such property so passing to him and of such dispositions made to him, and
  - (ii) dividing the product thereof by the aggregate value,

the amount of the duty mentioned in clause *c* shall be reduced to the amount obtained under subclauses i and ii of clause *c*. 1953, c. 100, s. 2.

Interpre-  
tation

(8) In this section,

- (a) "dependant" means,

- (i) the wife of the deceased,
- (ii) the infirm husband of the deceased where the deceased is survived by a dependent child, or
- (iii) a dependent child of the deceased;

(b) "dependants' allowance" means,

- (i) where the deceased is survived by a wife and no dependent children, \$60,000,
- (ii) where the deceased is survived by a wife and a dependent child or children, an amount equal to the sum of \$60,000 and \$10,000 for each dependent child,
- (iii) where the deceased is survived by an infirm husband and one dependent child, \$70,000,
- (iv) where the deceased is survived by an infirm husband and more than one dependent child, an amount equal to the sum of \$60,000 and \$10,000 for each dependent child, or
- (v) where the deceased is not survived by a spouse but is survived by a dependent child or children, an amount equal to the product expressed in dollars of 15,000 and the number of dependent children;

(c) "dependent child" means,

- (i) legitimate child of the deceased,
- (ii) person adopted by the deceased, or
- (iii) person to whom the deceased or the spouse of the deceased stood *in loco parentis* during the infancy of such person,

who at the time of the death of the deceased was under twenty-one years of age or was twenty-one years of age or over and dependent upon the deceased or the spouse of the deceased or both for support by reason of being infirm;

(d) "individual dependant allowance" means,

- (i) in the case of the wife of the deceased, \$60,000,
- (ii) in the case of the infirm husband of the deceased where the deceased is survived by a dependent child, \$60,000,

- (iii) in the case of a dependent child of the deceased where the deceased is survived by a wife or infirm husband, \$10,000, or
- (iv) in the case of a dependent child of the deceased where the deceased is not survived by a spouse, \$15,000;
- (e) "infirm" means a mental or physical condition in a person at the time of the death of the deceased that renders that person incapable ordinarily of pursuing any substantially gainful occupation. 1959, c. 95, s. 2 (4).

Provision in will exonerating legatee from payment of tax

**8.—(1)** Where the deceased by his will or in any instrument or in any other manner makes any provision for exonerating any person from, indemnifying any person in respect of or reimbursing any person for the payment of any duty, inheritance or death tax or similar impost payable by reason of the death of the deceased and any property is utilized or applied, in pursuance of such provision, in so exonerating, indemnifying or reimbursing any person,

- (a) such property shall be property passing on the death of the deceased to or for the benefit of such person; and
- (b) notwithstanding anything in this Act,
  - (i) the duty levied on any property shall be at the same rate at which duty would have been levied on or with respect to such property if no such provision had been made,
  - (ii) the duty levied on any person shall, with respect to any transmission or disposition to him had no such provision been made, be at the same rate at which duty would have been levied with respect to such transmission or disposition if no such provision had been made, and the duty levied on any person shall, with respect to the transmission to him by reason of such provision, be at the same rate at which duty would have been levied if no such provision had been made, and
  - (iii) the duty ascertained as provided in this section shall be due and payable and interest with respect thereto shall be charged or allowed the same as the duty that would arise if no such provision had been made would be due and payable and interest with respect thereto would be charged or allowed.

(2) Where the deceased died before the 5th day of April, 1946, having by his will or any instrument or in any other manner made any provision relating to the payment of duty to the extent that any person on whom duty is levied or any person to whom or for whose benefit any property on which duty is levied passes, is exonerated from, indemnified in respect of or reimbursed for the payment of any duty, inheritance or death tax or similar impost, payable by reason of his death, and where the duty payable on or by reason of his death remains in dispute because of such provision, the persons by whom duty is payable may settle and pay all such duty on the basis *mutatis mutandis* of the provisions of subsection 1 as though such provisions were in force at the date of death of the deceased. R.S.O. 1950, c. 378, s. 7.

Where death occurred prior to Apr. 5th, 1946

9. Where estate, legacy or succession duty is payable and paid in any jurisdiction that may be designated by the Lieutenant Governor in Council, on property in respect of which there is a transmission, the duty levied, pursuant to clause *b* of section 6, on any person to whom there is such transmission with respect to such transmission shall be reduced by the amount of the duty so paid which does not exceed the amount of the duty so levied. R.S.O. 1950, c. 378, s. 8.

Allowance for duty paid elsewhere on same death

10.—(1) On the death of any person, whether he dies domiciled in Ontario or elsewhere, unless the consent in writing of the Treasurer is obtained, Consent

- (a) no bank, trust company, insurance company or other corporation, having its head office, principal place of business, office from which payments are made, register of transfers, or any place of transfer, in Ontario, shall deliver, assign, transfer or pay, or permit the delivery, assignment, transfer or payment of,
  - (i) any property situate in Ontario in which the deceased at the time of his death had any beneficial interest, or
  - (ii) any money payable as a result of death under any contract of insurance either effected, contracted for or applied for by the deceased, or in which the deceased had at the time of his death any interest, where the debt resulting in the payment of such money was situate in Ontario at the date of death of the deceased; and
- (b) no person in Ontario, other than a person acting in the capacity of administering the property passing

on the death of the deceased, shall deliver, assign, transfer or pay or permit the delivery, assignment, transfer or payment of any property in which the deceased had at the time of his death any beneficial interest,

provided that this subsection does not apply to any contract to which clause *h* of section 4 applies. R.S.O. 1950, c. 378, s. 9 (1).

Payment of insurance, where no consent necessary

(2) Notwithstanding anything in this Act, any insurance company may make payment not exceeding \$2,500 due under any contract or contracts of insurance mentioned in subsection 1 without the consent of the Treasurer, and where such payment exceeds \$600 notice of such payment shall be transmitted forthwith to the Treasurer. R.S.O. 1950, c. 378, s. 9 (2); 1958, c. 103, s. 1.

Payments under pension funds, etc.

(3) Notwithstanding anything in this Act, any person may make payment not exceeding \$2,500 under any pension fund, plan or scheme of general application to employees of whom the deceased was one, without the consent of the Treasurer, where payment is made to or for the benefit of any member or members of the family of the deceased, and notice of the making of payment shall be transmitted forthwith to the Treasurer. 1952, c. 102, s. 2; 1959, c. 95, s. 3.

Payment of money on deposit, where no consent necessary

(4) Notwithstanding anything in this Act, where the deceased died domiciled in Ontario any one branch of any bank, trust company, or any insurance company, other corporation or any one person or any credit union may pay an amount not exceeding \$1,500 of money on deposit standing to the credit of the deceased either alone or jointly with any person, without the consent of the Treasurer, and notice of such payment shall be transmitted forthwith to the Treasurer, and such notice shall show the full name of the deceased, the date and place of his death, the amount paid, the name and relationship to the deceased of the person to whom paid and the total amount of the money on deposit at the date of death of the deceased. 1955, c. 82, s. 1; 1960, c. 114, s. 3 (1).

Payment of money on account of outstanding wages, where no consent necessary

(5) Notwithstanding anything in this Act, where the deceased died domiciled in Ontario, any employer of the deceased may pay as or on account of salary, wages or other remuneration owed to the deceased, or on account of commissions for services rendered by the deceased, an amount not exceeding \$1,500 without the consent of the Treasurer, and notice of such payment shall be transmitted forthwith to the Treasurer, and such notice shall show the full name of the deceased, the date and place of his death, the amount paid, the name and

relationship to the deceased of the person to whom paid and the total amount of such salary, wages, other remuneration or commissions. 1960, c. 114, s. 3 (2).

(6) Every bank, trust company, insurance company or other corporation and every other person who fails to comply with this section is guilty of an offence and on summary conviction is, for each offence, liable to a fine of \$1,000 and an amount not exceeding the amount of duty levied on or with respect to the transmission or disposition of any property dealt with in contravention of this section. R.S.O. 1950, c. 378, s. 9 (4). Offence

**11.—**(1) No person shall, without the consent in writing of the Treasurer, open or permit the opening of any safety deposit box or other repository in Ontario or remove or permit the removal from Ontario of any such safety deposit box or other repository, or withdraw or permit the withdrawal of anything from any such safety deposit box or other repository where such safety deposit box or other repository stands in the name of the deceased either alone or jointly with any person, or in the name of any member of the family of the deceased either alone or jointly with any person or where the deceased or any member of his family had access or right of access, directly or indirectly, to any such safety deposit box or other repository. Safety deposit boxes

(2) Every person who fails to comply with this section is guilty of an offence and on summary conviction is, for each offence, liable to a fine of \$1,000 and an amount not exceeding the amount of duty levied on or with respect to the transmission or disposition of anything withdrawn in contravention of this section. R.S.O. 1950, c. 378, s. 10. Offence

**12.—**(1) Every person resident in Ontario at the date of death of the deceased to whom or for whose benefit any property situate in Ontario passes on the death of the deceased is liable for the duty levied on the proportion of such property that so passes to him or for his benefit, together with such interest as may be payable thereon. Liability for duty and interest

(2) Every person on whom duty is levied is liable for such duty, together with such interest as may be payable thereon. Idem

(3) The duty levied by this Act shall be paid to the Treasurer. R.S.O. 1950, c. 378, s. 11. Duty payable to Treasurer

**13.—**(1) Every person to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, shall within three months after the death of the de- Filing affidavit

ceased, or within such further period as may be allowed by the Treasurer, make and file with the Treasurer an affidavit containing,

- (a) an inventory of all the property passing on the death of the deceased to him or for his benefit and particulars of all dispositions made to him and an inventory of all the property passing on the death of the deceased to or for the benefit of any other person and particulars of all dispositions made to any other person, of which he has knowledge, and such inventories shall show the value of such property and dispositions; and
- (b) his name and the names of all such other persons, his and their places of residence and the degrees of relationship in which he and they stand to the deceased.

Filing in-  
ventory, etc.,  
before  
probate

(2) The applicant for probate, letters of administration or other grant, shall at the time of making application make and file with the Treasurer an affidavit containing,

- (a) an inventory of all the property passing on the death of the deceased and particulars of all dispositions and such inventory shall show the value of such property and dispositions; and
- (b) the name of every person who benefits by any property passing on the death of the deceased or to whom a disposition is made, the place of residence of such person and the degree of relationship in which such person stands to the deceased.

Dispensing  
with  
affidavit

(3) Where an affidavit purporting to be the affidavit required by subsection 2 has been filed within the period mentioned in subsection 1, the Treasurer may, in writing, dispense with the filing of an affidavit by any of the persons to whom subsection 1 applies.

Penalty

(4) Every person in Ontario who makes default in complying with subsection 1 or 2 shall pay to the Treasurer as a penalty the sum of \$10 for each day during which the default continues. R.S.O. 1950, c. 378, s. 12.

Non-  
disclosure,  
100 per  
cent

**14.—(1)** Every person in Ontario mentioned in subsections 1 and 2 of section 13 who fails to disclose to the Treasurer any property passing on the death of the deceased or any disposition which such person is required to disclose in accordance with section 13, shall pay to the Treasurer as a penalty an amount equal to 100 per cent of the amount of the duty levied on such property or with respect to the transmission of such property or with respect to such disposition.



(2) Every person in Ontario mentioned in subsections 1 and 2 of section 13 who fails to disclose to the Treasurer any property passing on the death of the deceased or any disposition which such person is required to disclose in accordance with section 13, shall pay to the Treasurer as a penalty the sum of \$1 per day for each full \$1,000 in excess of \$1,000 in value of such property or disposition up to \$10 per day for each day of the period commencing with the day on which an affidavit purporting to be the affidavit required by subsection 1 or 2 of section 13 was filed and ending on the day on which it becomes known to the Treasurer that such property or disposition was not so disclosed, provided that the amount of such penalty shall not exceed the value of such property or disposition. R.S.O. 1950, c. 378, s. 13.

Non-disclosure,  
per diem  
penalty

**15.—(1)** The Treasurer may accept security satisfactory to him, Security for duty

- (a) for the payment of any duty that appears to be due, whether it has become payable or not, by deposit with him of a sum of money in an amount which he deems to be sufficient;
- (b) for the payment of any duty that appears to be due which has not become payable, by deposit with him of securities acceptable to him of a value which he deems to be sufficient; or
- (c) for the payment of any duty with respect to an interest in expectancy that is not to be paid until such interest falls into possession or for any duty that is not ascertainable until some future time, by bond acceptable to him and in such penal sum as he requires or by deposit with him of securities acceptable to him of a value which he deems to be sufficient.

(2) The Treasurer may accept security satisfactory to him for compliance by any person with section 26, by bond acceptable to the Treasurer and in such penal sum as he requires or by deposit with him of securities acceptable to him of a value which he deems to be sufficient. Security for compliance with s. 26

(3) Where the security mentioned in clause c of subsection 1 or in subsection 2 is by way of bond, the bond shall be in such form as is prescribed by the Lieutenant Governor in Council. 1955, c. 82, s. 2. Security by way of bond

(4) The Treasurer may allow interest at a rate not exceeding 3 per cent per annum upon the amount by which any cash security from time to time exceeds the amount of duty that has become payable. R.S.O. 1950, c. 378, s. 14 (2). Interest on cash security

When duty  
payable,  
general

**16.**—(1) Unless otherwise provided, duty is due at the death of the deceased and paid within six months thereafter and if the duty or any part thereof is paid within such period no interest is chargeable or payable on the amount so paid.

Annuities,  
etc.

(2) Where any annuity, term of years, life estate or income is created by the will of the deceased or by any disposition, the duty for which any person who benefits by such annuity, term of years, life estate or income is liable with respect thereto shall, unless otherwise provided, be paid in a number of equal annual instalments equal to,

(a) the number of years,

(i) of expectancy of life of such person, ascertained as provided in subsection 4 of section 3, or

(ii) for which such annuity, term of years or income is to run,

as the case may be; or

(b) ten,

whichever is the lesser, and such instalments shall commence one year after the death of the deceased.

Interests  
in expectancy  
of deceased

(3) Where the deceased had any interest in expectancy, the duty levied on such interest in expectancy or on the person to whom there is a transmission or to whom a disposition is made of such interest in expectancy may be paid as provided by subsection 1 or in the manner provided by subsection 5 or 7.

Interests in  
expectancy  
created by  
deceased

(4) Where any interest in expectancy is created by the will of the deceased or by any disposition, the duty for which any person who benefits by such interest in expectancy is liable with respect thereto may be paid as provided by subsection 1 or in the manner provided by subsection 5 or 7.

Interests  
in expectancy  
before  
possession

(5) The duty mentioned in subsections 3 and 4, if not paid within the time provided by subsection 1, is due when such interest in expectancy falls into possession and shall be paid within three months thereafter on the basis of the value at the date of falling into possession of the property in respect to which such interest in expectancy existed, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists.

Interests in  
expectancy  
before  
possession

(6) Notwithstanding subsections 3, 4, 5 and 7, the duty mentioned in subsections 3 and 4 may, with the consent of the Treasurer, be paid after the time provided by subsection 1

and before such interest in expectancy falls into possession and shall be on the basis of the value of such interest in expectancy ascertained as provided in this Act as at the date when such consent is given and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists.

(7) Where any interest in expectancy is an annuity, term of years, life estate or income, the duty for which any person who benefits by such interest in expectancy is liable with respect thereto, shall, if not sooner paid, be paid in a number of equal annual instalments equal to, <sup>Annuitants, etc.</sup>

(a) the number of years,

(i) of expectancy of life of such person ascertained as provided in subsection 4 of section 3, or

(ii) for which such annuity, term of years or income is to run,

as the case may be; or

(b) ten,

whichever is the lesser, and such instalments shall commence one year after the date when such annuity, term of years, life estate or income commences to be enjoyed. R.S.O. 1950, c. 378, s. 15.

**17.**—(1) If the duty mentioned in subsection 1 of section 16, or any part thereof, is not paid within the time provided therein, interest at the rate of 5 per cent per annum from the date of death of the deceased shall be charged and paid on the amount from time to time unpaid. <sup>Interest on duty in subs. 1 of s. 16</sup>

(2) If any instalment of duty mentioned in subsection 2 of section 16, or any part thereof, is not paid within the times provided therein, interest at the rate of 5 per cent per annum from the date when such instalment became payable shall be charged and paid on the amount of such instalment from time to time unpaid. <sup>Interest on duty in subs. 2 of s. 16</sup>

(3) If the duty mentioned in subsection 5 of section 16, or any part thereof, is not paid within three months after the interest in expectancy falls into possession, interest at the rate of 5 per cent per annum from the date of falling into possession shall be charged and paid on the amount from time to time unpaid. <sup>Interest on duty in subs. 5 of s. 16</sup>

Interest on  
duty in  
subs. 7 of  
s. 16

(4) If any instalment of duty mentioned in subsection 7 of section 16, or any part thereof, is not paid within the times provided therein, interest at the rate of 5 per cent per annum from the date when such instalment became payable shall be charged and paid on the amount of such instalment from time to time unpaid. R.S.O. 1950, c. 378, s. 16.

Payment of  
duty where  
general  
power of  
appoint-  
ment

**18.** Where a general power to appoint any property either by instrument *inter vivos* or by will or both is given to any person, the duty levied on such property or on the person to whom a disposition is made in respect of such property, shall be paid in the same manner as if the property had been devised or bequeathed to the person to whom such power is given. R.S.O. 1950, c. 378, s. 17.

Effect of  
order under  
R.S.O. 1960,  
c. 104

**19.** Where an order is made under section 2 of *The Dependants' Relief Act*, the deceased shall be deemed by his will to have directed that the money or other property directed by the order to be paid, delivered, transferred, conveyed or assigned, be paid, delivered, transferred, conveyed or assigned to the person for whose maintenance the allowance is by the order made. 1953, c. 100, s. 3.

Application  
of payment  
on account

**20.** Any payment, other than a payment of penalties, made to the Treasurer under this Act shall first be applied on any interest that may be payable on the duty. R.S.O. 1950, c. 378, s. 18.

Lien on  
property

**21.—(1)** Where any duty is levied on property passing on the death of the deceased, such duty or so much thereof as remains unpaid, with interest thereon, is and remains a first lien and charge on such property until paid or a certificate is given under section 41 discharging such property.

Lien with  
respect to  
disposition

(2) The duty levied on any person to whom a disposition is made, with respect to such disposition, is and remains a first lien and charge on the property in Ontario at the date of death of the deceased in respect of which the disposition is made where such property is owned at the date of death of the deceased by the person to whom the disposition is made, until paid or a certificate is given under section 41 discharging such property.

Caution

(3) The Treasurer may cause to be registered in the proper registry office or office of land titles, as the case may be, a caution claiming duty levied on any land, mortgage or charge or on any person to whom any disposition in respect of any land, mortgage or charge is made.

(4) Notwithstanding any provision of this or any other Act but subject to sections 10 and 11 of this Act, section 58 of *The Registry Act* and subsection 1 of section 133 of *The Land Titles Act*, any property passing on the death of the deceased or any property in respect of which a disposition is made which has been acquired by or transferred to any person in good faith for valuable consideration without notice, is not subject to any lien or charge for duty or interest under this Act. R.S.O. 1950, c. 378, s. 19.

Where no  
lien

R.S.O. 1960,  
cc. 348, 204

**22.** Where any duty is paid before the time provided for payment thereof, the Treasurer may allow interest upon the amount so paid at a rate not exceeding 3 per cent per annum from the time of payment until the time so provided for payment. R.S.O. 1950, c. 378, s. 20.

Interest  
allowed on  
prepay-  
ments

**23.** The Lieutenant Governor in Council, upon proof to his satisfaction that payment of duty within the time provided for payment thereof would be unduly onerous, may extend the time for payment to such date and upon such terms as he may deem proper. R.S.O. 1950, c. 378, s. 21.

Extension  
of time by  
order in  
council

**24.** The Lieutenant Governor in Council, upon proof to his satisfaction that an overpayment of duty has been made, may refund the amount of such overpayment together with interest thereon at a rate not exceeding 3 per cent per annum from the date of the making of such overpayment to the date on which such amount is refunded, provided that no such refund shall be made after the expiration of one year from the receipt by the Treasurer of an amount purporting to be in full settlement of the duty. R.S.O. 1950, c. 378, s. 22.

Duty over-  
paid to be  
refunded in  
certain cases

**25.—(1)** Where property passing on the death of the deceased includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any statute of Ontario exempting them from duty, then notwithstanding any declaration or provision made by will or otherwise by the deceased, the Treasurer may require that such bonds, debentures, inscribed stock or other securities or so much thereof as may be necessary shall be delivered to him and applied in payment of or on account of the duty payable by the persons to whom such bonds, debentures, inscribed stock or other securities pass, and such bonds, debentures, inscribed stock or other securities shall be so applied at their value on the date of death of the deceased.

Treasurer  
may require  
payment to  
be made in  
succession  
duty free  
bonds

**(2)** Where property passing on the death of the deceased includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any statute of Ontario

Indebted-  
ness to be  
charged to  
duty free  
securities

exempting them from duty, and there is no specific bequest thereof, such bonds, debentures, inscribed stock or other securities shall, for the purposes of this Act, be deemed to be distributed among the heirs, legatees, beneficiaries or next-of-kin in the same ratio as they share in the property not specifically bequeathed, and shall be directly chargeable with any indebtedness for which they are pledged as collateral or other security and shall bear *pro rata*, a proportion of the other debts and deductions authorized by subsection 5 of section 3. R.S.O. 1950, c. 378, s. 23.

Executors,  
etc., not  
personally  
liable;  
to deduct  
duty

**26.**—(1) An executor, trustee or person acting in a fiduciary capacity is not, as such, personally liable for any duty levied by this Act, but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the person beneficially entitled thereto any property that is vested in him as an executor, trustee or person acting in a fiduciary capacity at any time after the death of the deceased without deducting therefrom or collecting an amount sufficient to pay the duty levied on the proportion of the property passing on the death of the deceased to or for the benefit of such beneficially entitled person and the duty levied on such person, together with interest thereon. 1957, c. 116, s. 2.

Penalty

(2) Every such executor, trustee or person who transfers any such property without so deducting or collecting the amount payable by the person beneficially entitled thereto is guilty of an offence and on summary conviction is liable to pay to the Treasurer as a penalty an amount equal to 150 per cent of the amount of such duty, provided that any such executor, trustee or person is not so guilty or so liable if he so deducts from the property transferred or so collects an amount sufficient to pay the duty and interest payable by the person beneficially entitled thereto as claimed in a statement made pursuant to subsection 1 of section 34 or in any other claim made by the Treasurer or as determined by any court. R.S.O. 1950, c. 378, s. 24 (2).

Money to  
be paid over  
to Treasurer

(3) Any executor or trustee or any person who has any money for the payment of duty, interest or penalties shall be deemed to be a person who has received money for the Crown or for which he is accountable to the Crown within the meaning of *The Financial Administration Act*. R.S.O. 1950, c. 378, s. 24 (3); 1955, c. 82, s. 3.

R.S.O. 1960,  
c. 142

Raising of  
funds for  
duty

(4) Any person who may be required under the will of the deceased or any trust created by the deceased to pay the duty levied on any property that has come into his possession, or is vested in him or is under his control, or levied on any person to whom there is a transmission of any such property or to

whom a disposition of any such property is made, has, for the purpose of paying such duty or raising the amount of the duty when already paid, power to raise the amount of such duty and any interest and expense properly incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much of such property as may be necessary for such purpose. R.S.O. 1950, c. 378, s. 24 (4).

**27.**—(1) The Treasurer may make any examination, <sup>Inquiry by Treasurer</sup> investigation or inquiry concerning any fact, practice, transaction or matter, that he in his absolute discretion may consider necessary for the purpose of obtaining information to ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof.

(2) Where the Treasurer for any reason is not satisfied <sup>Special investigator</sup> that he is in possession of all facts necessary to ascertain whether any duty, interest or penalties are or may be due or payable, he may appoint a special investigator to make on his behalf any examination, investigation or inquiry that the special investigator in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Treasurer may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof.

(3) A copy of the appointment of a special investigator <sup>Service of appointment</sup> may be served on any person at any time.

(4) The Treasurer or a special investigator has power to <sup>Further powers</sup> require any person to give him any information and to produce to him any document, record and thing that he in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Treasurer may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof. R.S.O. 1950, c. 378, s. 25.

**28.**—(1) Where the Treasurer for any reason is not satisfied <sup>Commissioner</sup> that he is in possession of all facts necessary to ascertain whether any duty, interest or penalties are or may be due or payable, he may appoint a commissioner to make on his behalf any examination, investigation or inquiry that the commissioner in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Treasurer may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof.

(2) A copy of the appointment of a commissioner may be <sup>Service of appointment</sup> served on any person at any time.

Further  
powers

(3) The commissioner has the same power to administer oaths, summon and enforce the attendance of witnesses and to compel them to give evidence on oath and to produce any document, record and thing as is vested in any court in civil cases, provided that the commissioner is not bound by the provisions of rules of court or of law relating to the service of subpoenas on and of payment of conduct money or witness fees to witnesses.

Evidence  
*de bene*  
*esse*

(4) A judge of the Supreme Court may, on the application of the commissioner, make an order for the evidence of any person to be taken *de bene esse* or for it to be taken out of Ontario by commission or otherwise in the like circumstances and with the like effect as a similar order may be made in an action in such court.

Conduct of  
proceedings  
by commis-  
sioner

(5) The proceedings before a commissioner shall be conducted at such place, at such time, in such manner and either in public or otherwise as the commissioner may determine.

Record of  
proceedings

(6) A record of the proceedings before a commissioner shall be made in shorthand and shall be transcribed on the order of the Treasurer or the commissioner or, with the consent of the commissioner, on the order of any person concerned upon payment of the reporter's charges therefor.

Commis-  
sioner's  
report

(7) The commissioner shall within thirty days after the completion of the examination, investigation or inquiry, or within such further period as the Treasurer may allow, report in writing to the Treasurer. R.S.O. 1950, c. 378, s. 26.

Powers of  
Treasurer,  
investigator  
and commis-  
sioner not to  
be restricted

**29.** The powers conferred on the Treasurer, any special investigator or any commissioner shall not be restricted in any manner either as to person, as to subject matter of inquiry or otherwise and such powers may be exercised whether or not any duty has been paid and whether or not any duty, interest and penalties are or may be due or payable under this or any Act in force at the date of death of the deceased and no person shall be excused from giving any evidence, answering any question, furnishing any information or producing any document, record or thing on any such examination, investigation or inquiry on the ground that such evidence, question, information, document, record or thing may not be relevant thereto. R.S.O. 1950, c. 378, s. 27.

Duty to  
answer and  
produce

**30.—(1)** Every person shall answer any question, furnish any information and produce any document, record and thing asked or required of him by the Treasurer or a special investigator.



(2) Every person shall appear and give evidence on oath, answer any question, furnish any information and produce any document, record and thing asked or required of him by a commissioner. Duty to give evidence, etc.

(3) No person is entitled to claim any privilege in respect of any information, question, document, record or thing. Privilege

(4) No action lies against any person to whom subsection 1, 2 or 3 applies for anything done or purported to be done in pursuance of this section. R.S.O. 1950, c. 378, s. 28. No action against certain persons

**31.** Every person shall, when requested by the Treasurer, furnish to the Treasurer any material that the Treasurer may require for the purposes of this Act or furnish the Treasurer with written authority to inspect and make copies of any document, record or thing. R.S.O. 1950, c. 378, s. 29. Material to be furnished to Treasurer

**32.** No person in Ontario after being served with a copy of the appointment of a special investigator or of a commissioner shall, without the consent in writing of the Treasurer, destroy, mutilate, deface or alter, or permit the destruction, mutilation, defacement or alteration of, or conceal, or cause or permit the concealment of, or remove, or cause or permit the removal from Ontario of, Destroying, etc., property, etc.

(a) any property passing on the death of the deceased, any property deemed by any Act in force at the date of death of the deceased to pass on the death, or any property in respect of which a disposition is made, or any muniment or evidence of title to or of interest in any such property;

(b) any property, muniment or evidence of title or interest belonging to or in the possession of any executor or trustee relating to any property passing on the death of the deceased, to any property deemed by any Act in force at the date of death of the deceased to pass on the death, or to any disposition;

(c) any property, muniment or evidence of title or interest belonging to or in the possession of any person by whom duty may be payable; or

(d) any books, records, memoranda, documents or papers relating to anything mentioned in this section. R.S.O. 1950, c. 378, s. 30.

**33.—(1)** Where the Treasurer in his absolute discretion believes that any property, security, muniment or evidence of title or interest, safety deposit box or other repository men- Direction to hold

tioned in this subsection is about to be removed from Ontario or to be dissipated, and is not satisfied that all duty, interest or penalties that are or may be due or payable under this or any Act in force at the date of death of the deceased have been fully paid, he may in writing or by telegram direct any person in Ontario having on deposit, in custody, under control or in safe-keeping in Ontario,

- (a) any property, security, muniment or evidence of title to or of interest in any property passing on the death of the deceased or in any property deemed to pass on the death;
- (b) any property, security, muniment or evidence of title to or of interest in any property in respect of which a disposition is made; or
- (c) any safety deposit box or other repository containing any property passing on the death of the deceased, any property deemed to pass on the death, or any property in respect of which a disposition is made, or any property, security, muniment or evidence of title relating to any property passing on the death of the deceased, any property deemed to pass on the death, or any property in respect of which a disposition is made, in the name of, belonging to or in the possession of any executor or trustee, or any safety deposit box or other repository or any property, security, muniment or evidence of title in the name of, belonging to or in the possession of any person by whom duty may be payable,

to hold such property, security, muniment or evidence of title or interest, safety deposit box or other repository, or such part thereof as is mentioned in such direction until the Treasurer in writing revokes such direction.

Duty of  
Treasurer  
to proceed;  
duration of  
stop-order

(2) The Treasurer shall, upon giving such direction, proceed with due dispatch in order that the amount of duty, interest and penalties may be ascertained, and unless within one year after giving such direction the Treasurer serves a statement as provided by subsection 1 of section 34 or commences an action under section 37 and gives notice thereof to the person to whom the direction was given, he shall, at the end of such year, revoke such direction.

Treasurer  
may modify

(3) The Treasurer may at any time modify any such direction. R.S.O. 1950, c. 378, s. 31.

Treasurer's  
statement

**34.**—(1) Where as a result of information obtained by the Treasurer under section 13, 27 or 28 or from any other source or in any other manner it appears that duty, interest or

penalties are or may be due and payable, he may serve any person by whom the duty, interest or penalties are claimed to be payable with a statement showing the amount of duty, interest and penalties so claimed to be payable and particulars as to the computation thereof, and if the person by whom duty or interest is claimed to be payable is deceased, the statement may be served on his personal representative.

(2) Where service is made under subsection 1, the Treasurer<sup>Idem</sup> shall also serve a copy of the statement on any of the persons acting in the administration of the property passing on the death of the deceased or of any property in respect of which there is a disposition.

(3) Unless the duty, interest and penalties claimed in the statement are sooner paid, the applicant shall within one month after being served with the statement, serve the Treasurer with notice of appeal<sup>Notice of appeal</sup> setting out his objection to the statement and the reasons therefor and giving an address in Ontario for service.

(4) The Treasurer shall within one month after the service of the notice of appeal serve the appellant with notice of his decision<sup>Treasurer's notice of decision</sup> setting out therein that he confirms or amends the statement and the nature and particulars of any amendment.

(5) If the appellant is dissatisfied with the Treasurer's decision, he shall within one month after the service of the notice of decision, serve the Treasurer with notice of dissatisfaction<sup>Notice of dissatisfaction</sup> setting out therein any further facts, statutory provisions and reasons in support of his appeal as he may see fit.

(6) The Treasurer shall within two months after the service of the notice of dissatisfaction serve the appellant with a reply<sup>Reply</sup> confirming or amending the amount of duty, interest or penalties set out in the statement or in the notice of decision, and may set out therein the grounds upon which the reply is based.

(7) Within one month after the service of the reply, the appellant shall pay to the Treasurer such part as the Treasurer may require of the amount of duty and interest claimed to be payable by the appellant which are claimed to have become payable and shall furnish security, satisfactory to the Treasurer, for the payment of any such duty which has not become payable.<sup>Payment</sup>

(8) Within ten days after compliance with subsection 7, the appellant shall give security for costs in a sum not less than \$200 and not more than \$1,000 to the satisfaction of the Treasurer and shall also within such period of ten days file with the local registrar of the Supreme Court for the county or district<sup>Security for costs, filing documents</sup>

in which the deceased resided at the date of his death, or where the deceased died resident outside Ontario, with the Registrar of the Supreme Court, true copies of the following documents:

1. The affidavit required by subsection 1 or 2 of section 13 or any statement required under like provisions of any Act as has been filed.
2. Such affidavit of debts as has been filed.
3. Statement of Treasurer.
4. Notice of appeal.
5. Notice of decision.
6. Notice of dissatisfaction.
7. Reply.

Record;  
procedure

(9) The documents so filed constitute the record and the proceedings thereupon become a cause in the Supreme Court and may be set down or entered for trial by the appellant or by the Treasurer according to the rules of court and shall thereafter be proceeded with in the same manner as an action in such court, and the practice and procedure of such court relating to actions to which Her Majesty is a party, including any right of appeal, and the practice and procedure relating to appeals shall thereafter apply to such cause.

Amendment  
of docu-  
ments

(10) Notwithstanding anything in the rules of the Supreme Court, the Treasurer or the appellant may at any time before the conclusion of the hearing of the cause amend the documents served by him once without leave.

Style of  
cause

(11) The cause shall be styled:

In the matter of *The Succession Duty Act*, and in the matter of the estate of....., deceased, and in the matter of....., of the..... of....., in the County of....., Appellant.

Enforcement  
of judgment  
or order

(12) Every judgment or order given or made in any such cause may be enforced in the same manner and by the like process as a judgment or order given or made in an action in the Supreme Court and if as the result of any order or judgment it appears that the appellant has overpaid the amount of duty, interest or penalties payable by him, the Lieutenant Governor in Council shall, subject to any order as to costs, refund the amount of the overpayment to the appellant together with interest thereon at a rate not exceeding 3 per cent per annum from the date of the making of the overpayment to the date on which the amount is refunded.

Extension  
of time

(13) Where the deceased dies domiciled outside Ontario or where the appellant resides outside Ontario, the times limited

by subsections 3, 5 and 7 shall be extended by the Treasurer for such period as may appear to him to be reasonable and proper, and in such case the period of extension shall be shown in the statement served pursuant to subsections 1 and 2.

(14) Service under this section may be effected personally or by sending by registered mail addressed to the Treasurer, Parliament Buildings, Toronto, Ontario, and to the appellant addressed to the address set out in his notice of appeal, as the case may be, provided that in the case of a statement to be served under subsections 1 and 2 service may be effected personally or by sending the statement by registered mail addressed to the person to be served at his last known address.

Service,  
how effected

(15) In this section and in sections 35 and 36, "appellant" means a person on whom a statement referred to in subsection 1 is served. R.S.O. 1950, c. 378, s. 32.

Interpre-  
tation

**35.—**(1) If the appellant neglects or refuses to comply with subsection 3, 5 or 7 of section 34, the Treasurer may issue a warrant in the form prescribed by the regulations directed to the sheriff of any county or district in which any property of the appellant is situate for the amount, other than penalties, claimed by the Treasurer to have become payable by the appellant in the statement served pursuant to subsection 1 of section 34, or in the notice of decision served pursuant to subsection 4 of section 34, where by the notice of decision the amount has been amended, or in the reply served pursuant to subsection 6 of section 34, where by the reply the amount has been further amended, together with interest thereon from the date of the issue of the warrant, and for the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Warrant

(2) If the appellant, having complied with subsection 7 of section 34, neglects or refuses to comply with subsection 8 of section 34, he shall be deemed to have admitted all amounts claimed by the Treasurer, and the amount paid pursuant to subsection 7 of section 34 shall be retained by the Treasurer, and the Treasurer may issue a like warrant as is mentioned in subsection 1 for such part of the amount, other than penalties, claimed by the Treasurer to have become payable by the appellant but which has not been so paid, and the Treasurer may realize any security given by the appellant for the balance of the amount claimed, and if the appellant has paid all the amount claimed by the Treasurer to have become payable, the amount, if any, paid into court as security for costs shall be paid out to the appellant. R.S.O. 1950, c. 378, s. 33.

Non-compliance  
by  
appellant

Default by  
Treasurer

**36.**—(1) If the Treasurer fails to comply with subsection 4 or 6 of section 34, the appellant may, by complying with the remaining provisions of section 34, proceed to trial.

Discontinu-  
ance by  
Treasurer

(2) The Treasurer may, at any time prior to compliance by the appellant with subsection 7 of section 34, serve on the appellant a notice of discontinuance stating that he withdraws the statement served pursuant to subsection 1 of section 34 and any subsequent proceedings taken by him under section 34, and such withdrawal does not limit or affect his right to proceed with or to exercise all or any of the powers, rights and remedies, including those mentioned in section 34, conferred by this Act and the statement so withdrawn shall, for the purposes of subsection 2 of section 33, be deemed not to have been served.

Further  
duty

(3) Notwithstanding any judgment given or order made in any cause under section 34 or in any action under this Act, if it appears to the Treasurer that any property or disposition is not included in the claim in the proceedings leading to the judgment or order, the Treasurer may proceed with or exercise all or any of the powers, rights and remedies, including those mentioned in section 34, conferred by this Act for the purpose of collecting any duty levied on such property not so included, or levied on any person to whom there is a transmission of any such property, with respect to such transmission, or levied on any person to whom any disposition not so included is made, with respect to such disposition, together with any interest thereon and any penalties payable by the person to whom such property passes or to whom such disposition is made. R.S.O. 1950, c. 378, s. 34.

Recovery  
by action

**37.**—(1) In addition to the powers, rights and remedies of the Treasurer under this or any other Act, any duty and interest payable under this Act or any Act in force at the date of death of the deceased, any penalties imposed under section 13 or under similar provisions in force at the date of death of the deceased and any penalties imposed under section 14 or under any Act in force at the date of death of the deceased for failure to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions, may be recovered with costs by Her Majesty represented by the Treasurer by action in any court of competent jurisdiction.

Discovery

(2) In any cause under section 34 or in any action under this Act, any person or any officer or servant of any corporation, whether or not the person or corporation is a party to the cause or action, may be examined upon oath and shall make production upon oath of any documents, records or things that may be in the possession or under the control of the

person or corporation in the same manner as a party to an action in the Supreme Court may be required to attend for examination and to make production, provided that this subsection does not apply to the Treasurer or any officer or servant of the Crown.

(3) The use of any of the remedies provided by this section does not limit or affect the right of the Treasurer to proceed with or to exercise all or any of the powers, rights and remedies conferred by this Act, and any action or proceeding taken under this section does not affect any lien or priority that theretofore existed under this Act or otherwise. R.S.O. 1950, c. 378, s. 35. Preservation  
of remedies

**38.** No person shall make any false statement in any return, instrument, letter, note, telegram or other document required by, filed with, mailed or furnished to the Treasurer or any officer or employee of the Government of Ontario in connection with any of the provisions of this or of any other Act relating to duty, not under oath or affirmation or in a statutory declaration. R.S.O. 1950, c. 378, s. 36. False  
statements

**39.** No executor or trustee in Ontario having in his custody any books, records, memoranda, documents or papers relating to any property passing on the death of the deceased or to any disposition, where the aggregate value exceeds \$50,000, shall, without the consent in writing of the Treasurer, destroy, mutilate, deface or alter, or cause or permit the destruction, mutilation, defacement or alteration of, or remove or cause or permit the removal from Ontario of, any such books, records, memoranda, documents or papers. R.S.O. 1950, c. 378, s. 37. Preservation  
of records

**40.** Every person who fails to comply with subsection 1 or 2 of section 30, section 31, section 32, subsection 1 of section 33, section 38 or 39 is guilty of an offence and on summary conviction is, for each offence, liable to a fine of not less than \$1,000 and not more than \$10,000 or to imprisonment for a term of not more than two years, or to both fine and imprisonment. R.S.O. 1950, c. 378, s. 38. Offences

**41.** Where an amount purporting to be in full payment of the duty levied on property situate in Ontario or on any person to whom a disposition of such property is made, with respect to such disposition, has been paid together with any interest on such duty, the Treasurer shall, upon request, give a certificate discharging such property from any lien or charge for duty and interest. R.S.O. 1950, c. 378, s. 39. Certificate  
of discharge

Treasurer's  
powers to  
proceed

**42.** Whether or not any amount purporting to be on account or in full payment of any duty, interest or penalties has been paid, or the Treasurer or any officer or servant of the Crown has at any time received or acknowledged to have received any amount purporting to be on account or in full payment of any duty, interest or penalties due and payable under this or any Act in force at the date of death of the deceased, the Treasurer may proceed with or exercise all or any of the powers, rights and remedies, including those mentioned in section 34, conferred by this Act for the purpose of collecting any duty, interest or penalties that should have been paid under this or any Act in force at the date of death of the deceased. R.S.O. 1950, c. 378, s. 40.

Where no  
liability for  
duty after  
six years

**43.** Where the material and information furnished to the Treasurer is full and true in all respects and contains all facts necessary for the purposes of this Act, then, notwithstanding anything in this or any other Act, no claim shall be made against any person for any duty, interest or penalties for which such person is liable after the expiration of six years from the date of payment to the Treasurer of an amount purporting to be in full settlement of such duty, interest and penalties or of the balance thereof, provided that nothing in this section limits or affects the exercise of any of the powers conferred by sections 27, 28, 33 and 42. R.S.O. 1950, c. 378, s. 41.

Powers may  
be delegated

**44.** Any of the powers and duties conferred on the Treasurer by this Act may be delegated by him to the Deputy Provincial Treasurer and the other officials of his Department, or any of them, who may act for him in his place and stead. R.S.O. 1950, c. 378, s. 42.

Secrecy

**45.—(1)** All information and material furnished to or received by the Treasurer or any officer or servant of the Crown under this or any Act relating to duty is confidential.

Communi-  
cation  
forbidden

**(2)** No person shall, otherwise than in the ordinary course of his duties, communicate any such information to or allow access to or inspection of any such material by any person except officers of such departments of the Government of Canada or of any province of Canada as may be designated by the Lieutenant Governor in Council.

Exception

**(3)** Subsection 1 does not apply to any information or material in the office of the registrar of any surrogate court that was filed with him pursuant to this or any other Act, and subsection 2 does not apply to any such registrar or any person employed in his office in respect of such information or material.



(4) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 378, s. 43.

**46.** The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) prescribing forms and providing for their use;
- (b) prescribing the amount, form and manner in which security shall be furnished;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 378, s. 44.

**47.** Notwithstanding *The Judicature Act* and *The Fines and Forfeitures Act*, the penalties imposed by this or any Act in force at the date of death of the deceased shall not be remitted either in whole or in part, except by the Lieutenant Governor in Council. R.S.O. 1950, c. 378, s. 45. <sup>Remission of penalties R.S.O. 1960, c. 197, 143</sup>

**48.** Where the deceased dies from wounds inflicted, accident occurring or disease contracted within twelve months before death while in the active naval, military or air service of Her Majesty, the Treasurer may, if he thinks fit, remit the whole or any part of the duty for which the husband, wife, father, mother, child, son-in-law, daughter-in-law, brother or sister of the deceased is liable. R.S.O. 1950, c. 378, s. 46. <sup>Special remission of duty</sup>

**49.—(1)** Where the deceased dies after the coming into force of this Act, this Act applies. <sup>Application of Act</sup>

(2) Where the deceased died on or after the 1st day of July, 1892, and before the coming into force of this Act, the provisions of the Act in force at the date of death of the deceased, <sup>Idem</sup>

- (a) levying duty on or making subject to or liable for duty any person, property, transmission or disposition;
- (b) affecting or determining the amount and extent of duty;
- (c) creating an obligation by any person to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions; and

- (d) imposing penalties for failure to file returns or for failure to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions,

apply notwithstanding the repeal of such provisions, but all the other provisions of this Act apply.

Saving

(3) Nothing in subsections 1 and 2 affects the operation of subsection 2 of section 8 or section 51.

Saving  
Treasurer's  
powers

(4) This section does not limit the exercise of any of the powers conferred by sections 27, 28, 33 and 42. R.S.O. 1950, c. 378, s. 47.

R.S.O. 1960,  
c. 214 not  
to apply

**50.** *The Limitations Act* does not apply to any action, information or proceeding under this Act, for the recovery of any penalties imposed by this Act or by any Act in force at the date of death of the deceased. R.S.O. 1950, c. 378, s. 48.

Insurance  
in trust for  
Treasurer

**51.—**(1) Notwithstanding anything in *The Succession Duty Amendment Act, 1937*, clause g of subsection 2 of section 6 of *The Succession Duty Act, 1934* applies to any policy of insurance that prior to the 8th day of March, 1937, was made payable to the estate of the deceased in trust for the Treasurer for the purpose of providing money necessary to pay the duty on the estate of the deceased. R.S.O. 1950, c. 378, s. 49.

Idem

(2) Subsection 1 does not apply where the amount of the premiums mentioned in clause g of subsection 2 of section 6 of *The Succession Duty Act, 1934* is equal to or greater than the amount of the moneys received by the Treasurer mentioned in such clause g. 1954, c. 90, s. 3 (1).

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## CHAPTER 387

## The Summary Convictions Act

**1.** In this Act, "justice" means a justice of the peace, and <sup>Interpre-</sup> includes two or more justices sitting and acting together, a <sup>tation</sup> magistrate, and every other officer or functionary having for the purposes of any Act the authority of a justice or magistrate. R.S.O. 1950, c. 379, s. 1.

**2.** Subject to any special provision otherwise enacted with <sup>Application</sup> respect to such offence, act or matter, this Act applies to, <sup>of Act</sup>

(a) every case in which any person commits, or is suspected of having committed, any offence or act over which the Legislature has legislative authority and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment;

(b) every case in which an information is laid before a justice in relation to any matter over which the Legislature has legislative authority and with respect to which the justice has authority by law to make an order for the payment of money or otherwise. R.S.O. 1950, c. 379, s. 2.

**3.** Except where inconsistent with this Act, Parts XIX <sup>Application</sup> and XXIV and sections 20, 21, 22, 446 (in so far as it relates <sup>of Criminal</sup> to a witness), 621, 623, 624, 625, 682, 683, 684 and 689 of the *Criminal Code* (Canada), as amended or re-enacted from time <sup>Code</sup> to time, apply *mutatis mutandis* to every case to which this <sup>1953-54,</sup> Act applies as if the provisions thereof were enacted in and <sup>c. 51 (Can.)</sup> formed part of this Act. 1955, c. 83, s. 1, *part*; 1956, c. 86, s. 1.

**4.** In proceedings under this Act the depositions need not <sup>Depositions</sup> be read over to or signed by the witness. 1955, c. 83, s. 1, *part*. <sup>need not</sup> <sup>be signed</sup>

**5.** Notwithstanding anything in *The Judicature Act*, a case <sup>Stated</sup> stated under Part XXIV of the *Criminal Code* (Canada) shall <sup>cases</sup> be heard and determined by a judge of the Supreme Court in <sup>R.S.O. 1960,</sup> chambers. 1955, c. 83, s. 1, *part*. <sup>c. 197</sup>

**6.—(1)** Except as provided in subsection 9, every summons <sup>Service by</sup> issued for a contravention of any of the provisions of any Act <sup>mail or</sup> of the Legislature or of any regulation or order made there- <sup>personal</sup> <sup>service</sup>

under or of any municipal or other by-law shall be served either by sending it by prepaid post to the person summoned as hereinafter provided or by personal service as hereinafter provided. R.S.O. 1950, c. 379, s. 4 (1).

Address

(2) Every summons sent by prepaid post shall be addressed,

- (a) where the person summoned is not a corporation, to his last or usual place of abode; and
- (b) where the person summoned is a corporation, to the chief place of business or office or a branch of the corporation; or
- (c) where the person summoned is the holder of a licence or permit issued from the Department of Transport, to the address registered with the Department. R.S.O. 1950, c. 379, s. 4 (2); 1959, c. 96, s. 1 (1).

Non-  
appearance  
of person  
summoned

(3) Except as provided in subsection 6, a summons sent by prepaid post shall have endorsed upon its face in bold face type a notice that if the person summoned does not appear in person or by counsel or other representative at the time and place indicated in the summons, the summons will be served,

- (a) where the person summoned is not a corporation, by personal service or by leaving it at his place of abode, or, in the case of the holder of a licence or permit issued from the Department of Transport, at the address registered with the Department; and
- (b) where the person summoned is a corporation, by serving it upon the mayor, president or other head or the clerk, secretary or like officer of the corporation or the chief officer of a branch thereof, or by leaving it at the chief place of business or office or a branch of the corporation, or where it holds a licence or permit issued from the Department of Transport, at the address registered with the Department,

and that, in the event of a conviction, the person summoned may be required to pay the cost of such service. R.S.O. 1950, c. 379, s. 4 (3); 1959, c. 96, s. 1 (2, 3).

When  
deemed not  
service

(4) Except as provided in subsection 6, a summons sent by prepaid post shall be deemed not to have been served unless the person summoned appears in person or by his counsel or other representative at the time and place named in the summons. R.S.O. 1950, c. 379, s. 4 (4).

Time for  
service for  
offences  
under  
R.S.O. 1960,  
c. 172

(5) Every summons issued for a contravention of any provision of *The Highway Traffic Act*, except subsections 1 and 2 of section 7, subsection 1 of section 9, subsections 2 and 3 of section 25, sections 32 and 49 and subsection 1 of section 143,

shall be served by sending it by prepaid post or by personal service within twenty-one days of the alleged contravention. R.S.O. 1950, c. 379, s. 4 (5); 1958, c. 104, s. 1; 1960, c. 115, s. 1.

(6) - Where a summons is issued for a contravention of any of the provisions of *The Highway Traffic Act*, *The Public Commercial Vehicles Act*, *The Public Vehicles Act* or *The Motor Vehicle Fuel Tax Act* against a person who resides outside Ontario, whether within or without Canada, the summons shall be deemed to have been duly served when it has been sent by prepaid post to the last or usual place of abode of the person summoned and every such summons shall have endorsed upon its face in bold face type a notice as follows: "Take notice that the within summons has been issued against you for the offence indicated therein and is served by post upon a non-resident of Ontario in accordance with *The Summary Convictions Act*. If you do not appear in person or by counsel or other representative to make your defence at the time and place indicated in the summons, the charge will be proceeded with in your absence." R.S.O. 1950, c. 379, s. 4 (6); 1959, c. 96, s. 1 (4).

Service out-  
side Ontario  
R.S.O. 1960,  
cc. 172, 319,  
337, 248

(7) Every summons not sent by prepaid post shall be served,

Personal  
service

- (a) where the person summoned is not a corporation, by personal service or by leaving it for the person summoned at his last or usual place of abode, with an inmate thereof apparently not under the age of sixteen years, or where he holds a licence or permit issued from the Department of Transport, at the address registered with the Department, with an inmate thereof apparently not under the age of sixteen years; or
- (b) where the person summoned is a corporation, by serving it upon the mayor, president or other head or the clerk, secretary or like officer of the corporation or the chief officer of a branch thereof, and if any of such persons cannot conveniently be met with, by leaving it at the chief place of business, or office or a branch of the corporation, with an employee of the corporation apparently not under the age of sixteen years, or where it holds a licence or permit issued from the Department of Transport, at the address registered with the Department, with an employee of the corporation apparently not under the age of sixteen years. R.S.O. 1950, c. 379, s. 4 (7); 1959, c. 96, s. 1 (5, 6).

Where  
mailed  
summons  
deemed not  
served

(8) Where a summons sent by prepaid post is deemed not to have been served, another summons shall be issued and served in the manner prescribed by subsection 7. R.S.O. 1950, c. 379, s. 4 (8).

Time for  
service of  
further sum-  
mons for  
offence under  
R.S.O. 1960,  
c. 172

(9) Where a summons issued under subsection 8 is for a contravention of any provision of *The Highway Traffic Act*, it shall be served within fifteen days of the date on which the person is required to appear by the original summons. R.S.O. 1950, c. 379, s. 4 (9); 1953, c. 101, s. 1 (2).

Extension of  
time for  
service

(10) The time for serving a summons under subsection 5 or 9 may be extended at any time by a magistrate on sufficient evidence being adduced that the person named in the summons could not be served within the prescribed time. R.S.O. 1950, c. 379, s. 4 (10).

Proof of  
sending

(11) The sending of a summons by prepaid post may be proved by the affidavit of the person who posted the summons and the affidavit shall state,

- (a) the place, date and time of posting;
- (b) the name of the person and the address to which the summons was sent; and
- (c) that such address is,
  - (i) to the best of the knowledge and belief of the deponent, the last or usual place of abode of the person summoned, or
  - (ii) where the person summoned is a corporation, the chief place of business or office or a branch of the corporation, or
  - (iii) registered with the Department of Transport as being the address of the person summoned, according to information received from the Department,

and every such affidavit is *prima facie* evidence of the facts stated therein. R.S.O. 1950, c. 379, s. 4 (11); 1959, c. 96, s. 1 (7).

Traffic  
ticket  
authorized  
1953-54,  
c. 51 (Can.)

R.S.O. 1960,  
c. 172

7.—(1) In lieu of the procedure set out in the *Criminal Code* (Canada) for laying an information and for issuing a summons, an information may be laid and a summons issued by means of a traffic ticket in accordance with this section for a contravention of any provision of *The Highway Traffic Act* or any regulations made thereunder or for a contravention of any municipal by-law regulating traffic.

(2) Every traffic ticket shall be in four parts as follows: Form of traffic ticket

1. Information.
2. Report of conviction.
3. Police record.
4. Summons.

(3) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the form of the traffic ticket;
- (b) defining any word or expression used in the regulations;
- (c) authorizing the use on a traffic ticket of any word or expression to designate an offence under *The Highway Traffic Act* or any regulations made thereunder or any municipal by-law regulating traffic; R.S.O. 1960, c. 172
- (d) respecting any matter that he deems necessary to provide for the use of the traffic ticket.

(4) The use on a traffic ticket of any word or expression authorized by the regulations to designate an offence under *The Highway Traffic Act* or any regulations made thereunder or any municipal by-law is sufficient for all purposes to describe the offence designated by such word or expression. Sufficiency of abbreviations

(5) A police officer or other informant shall indicate the offence charged on the traffic ticket by placing a cross, thus "X", in the box to the left of the offence charged or if the offence charged does not appear on the traffic ticket he shall write the offence in the space provided therefor on the traffic ticket. Offence charged, procedure

(6) Upon completing a traffic ticket and affixing his signature thereto, the police officer shall deliver the traffic ticket summons to the person charged with an offence therein and delivery of the traffic ticket summons in accordance herewith shall be deemed to be personal service in compliance with subsection 7 of section 6. Delivery of summons

(7) Where a traffic ticket summons is not delivered by a police officer in accordance with subsection 6, a traffic ticket information may be used to lay an information before a justice, in which case the traffic ticket summons may be attached for information purposes only to the summons issued by the justice. Traffic complaint authorized where summons not delivered

Traffic  
complaint  
signed and  
sworn

(8) Every traffic ticket information shall be,

- (a) signed by the informant and sworn to before a justice; and
- (b) deposited, together with the traffic ticket report of conviction, with the proper justice.

Complaint  
need not  
be sworn to  
before  
delivery of  
summons

(9) The traffic ticket information need not be sworn to before the traffic ticket summons is delivered.

Report of  
conviction

(10) Where a justice makes a conviction on a traffic ticket information, he shall complete the traffic ticket report of conviction and forward it to the Registrar of Motor Vehicles and it shall be deemed to be compliance with subsection 1 of section 152 of *The Highway Traffic Act*. 1957, c. 117, s. 1.

R.S.O. 1960,  
c. 172

Effect of  
giving time  
for payment

**8.** Where a conviction or order of a justice adjudges that a fine, penalty or costs be paid, the conviction or order is not void nor is the right to collect any fine or costs or to enforce any penalty under any such conviction or order impaired because of time having been allowed for the payment of the sum or any part thereof, or because of payment having been received of part of the sum adjudged to be paid, or because of the justice having accepted security for the payment of the same or any part thereof. R.S.O. 1950, c. 379, s. 5.

Payment of  
prosecutor's  
costs

**9.—(1)** The justice may award and order, in and by the conviction or order, the defendant to pay to the prosecutor or complainant such costs as to the justice seem reasonable, such costs not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace.

Payment of  
defendant's  
costs

(2) Where the justice dismisses the information, he may by the order of dismissal award and order the prosecutor or informant to pay to the defendant such costs as to the justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace.

Recovery  
of costs

(3) The sums allowed for costs shall be stated in the conviction or order, and are recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, and such costs shall extend to and include costs and charges of the distress, of the commitment, and of conveying the defendant to prison, and it is not necessary to include them in the amount mentioned in the conviction or order, but the amount thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the jailer, and in the case of a distress, the person by whom the same are payable is entitled on demand to a statement of the amount thereof.



(4) Where there is no penalty to be recovered or where the information is dismissed, the costs shall be specified in the order and are recoverable only by distress and sale of the goods and chattels of the party. Recovery of costs where no penalty

(5) The costs awarded by the justice to the prosecutor or informant or to the defendant, as the case may be, may include a counsel fee of such an amount as the justice deems reasonable but not more than \$10. R.S.O. 1950, c. 379, s. 6. Counsel fee

**10.**—(1) Where a person is convicted of an offence for which a minimum punishment is not provided and he has not been previously convicted of any offence, the justice may, if he thinks it expedient having regard to the age, character and antecedents of the offender and to the nature of the offence and to any extenuating circumstances, direct that he be released upon suspended sentence. Suspended sentence

(2) The offender so released may at any time within two years or such shorter period as the justice fixes be called upon to appear and receive sentence if in the meantime he fails to keep the peace and to be of good behaviour. Sentence after suspension

(3) The justice may, if he sees fit, require a bond with or without sureties for such appearance and keeping of the peace and good behaviour. R.S.O. 1950, c. 379, s. 7. Security from person convicted

**11.** Where a person is convicted of an offence and under the relevant Act the convicting justice has no option but must impose a term of imprisonment upon the offender, the justice may, notwithstanding that Act, impose a fine of not more than \$1,000 in lieu of such imprisonment. 1953, c. 101, s. 2. Fine in lieu of imprisonment

**12.** Where a conviction adjudges a pecuniary penalty or compensation to be paid by a corporation or an order requires the payment of a sum of money by a corporation, whether the law authorizing such conviction or order does or does not provide a mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment thereof, the justice by his conviction or order after adjudging payment of such penalty, compensation or sum of money, with or without costs, may order and adjudge that in default of payment thereof forthwith, or within a limited time, such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, shall be levied by distress and sale of sufficient goods and chattels of the corporation, and for such purpose the justice may issue a warrant of distress commanding a peace officer forthwith to make sufficient distress of the goods and chattels of the corporation, and if within ten days after the making of the distress the penalty, compensation Conviction or order involving payment of money by a corporation

or sum of money and costs, if the conviction or order is made with costs, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the goods and chattels and to pay the money arising from the sale to the justice, and if no such distress is found, to notify the justice of such fact. 1956, c. 86, s. 2.

Return of convictions

**13.** Every justice shall forthwith after making a conviction or order or an order of dismissal transmit to the clerk of the peace for the county or district the conviction or order or order of dismissal together with the information, depositions and other papers relating to the case and any recognizances in respect of which proceedings are required to be taken in the court of general sessions of the peace. R.S.O. 1950, c. 379, s. 8 (1).

Search warrant, when to be issued

**14.—(1)** Where a justice is satisfied by information upon oath (Form 1) that there is reasonable ground for believing that there is in any building, receptacle or place,

- (a) anything upon or in respect of which an offence against a statute of Ontario has been or is suspected to have been committed; or
- (b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence,

he may at any time issue a warrant (Form 2) under his hand authorizing a constable or other person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or some other justice for the same territorial division to be by him dealt with according to law.

When to be executed

(2) Every search warrant shall be executed between sunrise and sunset, unless the justice by the warrant authorizes the constable or other person to execute it at night.

How things seized to be dealt with

(3) Where any such thing is seized and brought before a justice, he may detain it, taking reasonable care to preserve it until the conclusion of the investigation, and, if no one is convicted, the justice shall direct the thing to be restored to the person from whom it was taken unless he is authorized or required by law to dispose of it otherwise. R.S.O. 1950, c. 379, s. 9.

When officers in charge of police station may take bail

**15.—(1)** Where a person who is charged with an offence to which this Act applies is taken into custody either with or without the warrant of a justice and is brought into a police station at any time during the day or night, the police officer

in charge of the station, if he thinks the case a proper one, may take bail without fee from such person by recognizance conditioned for his appearance within two days before the magistrate or other justice at the time and place therein mentioned. R.S.O. 1950, c. 379, s. 10 (1); 1958, c. 104, s. 2.

(2) The recognizance shall be of equal obligation on the persons entering into it and the same proceedings may be taken for the estreating of it as if it had been taken before a justice. Effect of recognizance so taken

(3) The police officer shall enter in a book the name, residence and occupation of the person entering into the recognizance and of his surety or sureties, if any, with the condition of the recognizance and the sums acknowledged. Record of recognizance

(4) The police officer shall make a return to the magistrate or other justice present at the time when and place where the person charged is required to appear of all recognizances taken by him. R.S.O. 1950, c. 379, s. 10 (2-4). Return of recognizance to be made

**16.** In all proceedings to which this Act applies, it is not necessary for the judge or magistrate to affix his seal to any document, and no document is invalidated by reason of the lack of a seal even though it purports to be sealed. R.S.O. 1950, c. 379, s. 11. Affixing of seal not necessary

**17.—(1)** Unless it is otherwise provided in the Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an information, any person who thinks himself aggrieved by any such conviction or order or order of dismissal, the prosecutor or informant as well as the defendant, may appeal to the county or district court of the county or district, as the case may be, in which the cause of the information arose. R.S.O. 1950, c. 379, s. 12 (1). Appeal from conviction or order

(2) Subsection 1 does not affect any right of appeal that is otherwise provided by law. 1959, c. 96, s. 2. Other rights of appeal not affected

(3) No such order or conviction and no order or conviction made on appeal therefrom shall be removed into the Supreme Court by a writ of *certiorari* or motion instead thereof if the defendant has appealed from such order or conviction to any court to which an appeal from such order or conviction is authorized by law. Certiorari or motion therefor not to be granted where defendant has appealed

(4) Where an appeal is taken to the judge of the county or district court, the judge may award reasonable costs to either party, including counsel fees and all necessary disbursements. R.S.O. 1950, c. 379, s. 12 (2, 3). Costs of appeal

Appeal to  
Court of  
Appeal

**18.** An appeal to the Court of Appeal as provided by this Act may be taken by the informant or by any party to the proceedings in the court from which the appeal lies. 1956, c. 86, s. 3.

Appeal to  
Court of  
Appeal

**19.**—(1) If the Attorney General for Canada or the Attorney General for Ontario certifies that, in his opinion, a judgment or decision of the Supreme Court or a judge thereof upon a stated case or upon an application to quash a conviction made under an Act of Ontario creating an offence punishable on summary conviction before a justice or to discharge a prisoner who is held in custody under such conviction, whether the conviction has been quashed or the prisoner discharged or the application refused, involves a question on the construction of *The British North America Act* (Imperial), and is of sufficient importance to justify an appeal, an appeal at the instance of either Attorney General or of any party who thinks himself aggrieved lies therefrom to the Court of Appeal. R.S.O. 1950, c. 379, s. 13 (1).

Imp. 30-31  
V., c. 3

Enforcing  
conviction  
or order

(2) After the decision of the Court of Appeal, the justice from whom the appeal was had, or any other justice exercising the same jurisdiction, has authority to enforce the order of the court upon the appeal.

Costs

(3) The defendant shall in no event be ordered to pay any costs on an appeal brought by the Attorney General for Canada or by the Attorney General for Ontario under this section. R.S.O. 1950, c. 379, s. 13 (3, 4).

When  
imprison-  
ment to  
commence

**20.** The term of imprisonment in pursuance of any sentence shall, unless otherwise directed in the sentence, commence on and from the day on which the prisoner is lodged in jail thereunder, but no time during which the convicted person is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced. R.S.O. 1950, c. 379, s. 14.

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## FORM 1

(Section 14 (1) )

## INFORMATION TO OBTAIN A SEARCH WARRANT

Province of Ontario,  
County of

The information of A. B., of....., in the said County, taken the.....day of....., in the year....., before me, C. D., a Justice of the Peace for the County (or District, etc.) of..... who says that (*insert general description of things to be searched for and offence in respect of which search is made*), and that he has just and reasonable cause to suspect, and suspects, that the said goods and chattels, or some part of them, are contained in the (*dwelling-house, etc.*) of E. F., of....., in the said County (or District, etc.) (*here add the causes of suspicion, whatever they may be*). Wherefore (*he*) prays that a search warrant may be granted to him to search the (*dwelling-house, etc.*) of the said E. F., as aforesaid, for the said goods and chattels.

Sworn, etc.

C. D.,  
J.P. for (*Name of County or District*).

R.S.O. 1950, c. 379, Form 1.

## FORM 2

(Section 14 (1) )

## SEARCH WARRANT

Province of Ontario,  
County of

To all or any of the constables and other peace officers in the said County of.....

Whereas it appears on the oath of A. B., of....., that there is reason to suspect that (*describe the things to be searched for and offence in respect of which search is made*) are contained in....., at..... This is, therefore, to authorize you to enter between the hours of (*as the Justice directs*) into the said premises, and to search for the said things and to bring them before me or some other justice of the peace.

Dated at....., in the said County of..... this.....day of....., in the year.....

C. D.  
J.P. for (*Name of County or District*).

R.S.O. 1950, c. 379, Form 2.



## CHAPTER 388

## The Surrogate Courts Act

**1.** In this Act,Interpre-  
tation

- (a) "administration" includes all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special or limited purposes;
- (b) "common form business" means the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a surrogate court when the contest is terminated, and all business of a non-contentious nature to be taken in a surrogate court in matters of testacy and intestacy not being proceedings in a suit, and also the business of lodging caveats against the grant of probate or administration;
- (c) "county" includes a provisional judicial district;
- (d) "matters and causes testamentary" includes all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;
- (e) "will" includes a testament and all other testamentary instruments of which probate may be granted. R.S.O. 1950, c. 380, s. 1.

**2.** There shall be in and for every county a court of record styled The Surrogate Court of the County (or District) of ..... A surrogate court for each county *(inserting the name of the county or district)*. R.S.O. 1950, c. 380, s. 2.

**3.** Every surrogate court shall be provided with a seal Seal approved by the Lieutenant Governor. R.S.O. 1950, c. 380, s. 3.

**4.** The sittings of the surrogate court shall be held in the county court house or such other place in the county as the judge directs and shall be presided over by the judge or a junior judge thereof. R.S.O. 1950, c. 380, s. 4; 1957, c. 119, s. 1; 1960, c. 117, s. 1. Sittings

Power to  
enforce  
judgments  
and orders

5. Every surrogate court has the like powers as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and the same have the like force and effect as writs and process issued out of the Supreme Court. R.S.O. 1950, c. 380, s. 5.

Contempt,  
etc.

6. Every surrogate court may punish by fine or imprisonment, or by both, for every wilful contempt of or resistance to its process, rules or orders; but the fine shall not in any case exceed \$100, nor shall the imprisonment exceed six months. R.S.O. 1950, c. 380, s. 6.

Rules of  
evidence

practice and  
procedure

7. The rules of evidence observed in and, except as herein otherwise provided and subject to the surrogate court rules in contentious matters, the practice and procedure of the Supreme Court apply to the surrogate courts, and, with respect to all matters within the jurisdiction of the surrogate courts, such courts and the judges and officers thereof respectively, have and may exercise all the powers of the Supreme Court and of the judges and officers thereof. R.S.O. 1950, c. 380, s. 7.

Appointment  
of judges,  
junior  
judges

8.—(1) The Lieutenant Governor in Council shall appoint the judges of the surrogate courts and may appoint as many junior judges of the surrogate courts as he deems necessary, and every judge and junior judge shall hold office during good behaviour and may be removed from office by the Lieutenant Governor in Council for inability, incapacity or misbehaviour established to his satisfaction.

Same judge  
in more  
than one  
county

(2) The same person may be appointed to and hold the office of judge or junior judge of the surrogate court of more than one county.

Salary where  
judge not  
county  
judge

(3) Where the judge or junior judge of a surrogate court is not also a judge or junior judge of the county court, the Lieutenant Governor in Council may fix his salary which shall be paid out of the Consolidated Revenue Fund. 1957, c. 119, s. 2.

Acting  
judge,  
vacancy or  
absence or  
illness of  
judge

9.—(1) Where there is a vacancy in the office of judge or junior judge of a surrogate court or the judge or junior judge of a surrogate court is absent or ill, any judge or junior judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing may, when so directed by the Attorney General, act as judge or junior judge, as the case may be, of the surrogate court in which the vacancy exists or of which the judge or junior judge is absent or ill.



(2) Where a judge or junior judge of a surrogate court requests in writing any judge or junior judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing to preside over his court, such judge, junior judge or barrister may act as judge or junior judge, as the case may be, of his court. 1957, c. 119, s. 3.

(3) Where a judge of a county court who is also judge of the surrogate court vacates his county court judgeship, unless the Lieutenant Governor in Council otherwise directs, he shall thereby vacate his judgeship of the surrogate court. R.S.O. 1950, c. 380, s. 9 (3).

**10.** The judge of the surrogate court of a county forming a county court district or a part thereof, before entering upon the duties of his office, shall take and subscribe the following oath before the judge who, in point of time, is senior in appointment to office in the county court district, or, where such judge is unable to officiate because of illness or otherwise, before a judge designated for the purpose by the Lieutenant Governor in Council:

I, ....., do swear that I will, truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of judge of the Surrogate Court of the.....  
of..... So help me God.

1958, c. 106, s. 1.

**11.** The judge of the surrogate court of a county forming a county court district or a part thereof may exercise and perform in any part of such district any power or duty assigned to the judge of a surrogate court by any statute of Ontario. R.S.O. 1950, c. 380, s. 11; 1958, c. 106, s. 2.

**12.** There shall be a registrar for every surrogate court who shall be appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 380, s. 12.

**13.** Every registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

"I, ....., do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the....., and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1950, c. 380, s. 13.

**14.** Every registrar, before entering upon the duties of his office, shall furnish such security as is required by the

R.S.O. 1960,  
c. 326

Lieutenant Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act* relating to the giving of security apply to such security. R.S.O. 1950, c. 380, s. 14.

Registrar's  
office

**15.** The registrar shall keep his office in the court house of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the judge directs. R.S.O. 1950, c. 380, s. 15.

Office hours

**16.** Except on Saturdays and holidays when they shall be closed, every surrogate court office shall be kept open from 9.30 a.m. until 4.30 p.m. 1952, c. 105, s. 1.

Depository  
for the wills  
of living  
persons

**17.** The office of the registrar is a depository for all wills of living persons given to him for safe keeping, and the registrar shall receive and keep the same upon payment of such fees and under such regulations as are prescribed by the surrogate court rules. R.S.O. 1950, c. 380, s. 16.

Preservation  
of testamen-  
tary instru-  
ments, etc.

**18.** The registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted, and all other papers used in any matter in his court, subject to such regulations as are prescribed by the surrogate court rules. R.S.O. 1950, c. 380, s. 17.

Transmis-  
sion to  
Registrar of  
the Supreme  
Court of list  
of grants, etc.

**19.** On the third day of every month, or oftener if required by the surrogate court rules, every registrar shall transmit by mail to the Registrar of the Supreme Court a list, in such form and containing such particulars as are prescribed by such rules, of the grants of probate and administration made by his court up to the last day of the preceding month, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1950, c. 380, s. 18.

Registrar  
not to take  
fee for  
drawing or  
advising on  
certain  
documents

**20.** A registrar shall not for fee or reward draw or advise upon any will or upon any paper or document connected with the duties of his office for which a fee is not expressly allowed to him by the tariff. R.S.O. 1950, c. 380, s. 19.

Testamen-  
tary juris-  
diction to  
be exercised  
by the surro-  
gate courts  
R.S.O. 1960,  
c. 197

**21.** Subject to *The Judicature Act*, all jurisdiction and authority in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, are vested in the several surrogate courts. R.S.O. 1950, c. 380, s. 20.

**22.** An action for a legacy or for the distribution of a residue shall not be entertained by a surrogate court. R.S.O. 1950, c. 380, s. 21. No action for legacy or distribution of residue

**23.** Letters of administration shall not be granted to a person not residing in Ontario, but this does not apply to resealing letters under section 75. R.S.O. 1950, c. 380, s. 22. Administration not to be granted to non-resident

**24.** Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the Commonwealth, unless the person has given the like security as is required from an administrator in case of intestacy, unless in the opinion of the judge such security should under special circumstances be dispensed with or be reduced in amount. R.S.O. 1950, c. 380, s. 23. Probate or letters ancillary to persons not residing in British Dominions

**25.—(1)** The granting of probate or letters of administration belongs to the surrogate court of the county in which the testator or intestate had at the time of his death his fixed place of abode. Grant, of probate or administration, jurisdiction

**(2)** If the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the grant may be made by the surrogate court of any county in which the testator or intestate had property at the time of his death. Where decedent had no abode in Ontario

**(3)** In other cases the granting of probate or letters of administration belongs to any surrogate court. R.S.O. 1950, c. 380, s. 24. When any court may make grant

**26.** Where the person or one of the persons entitled to apply for probate of a will or for letters of administration is judge of the court having jurisdiction in the matter and he does not renounce, application by him for such probate or letters and any subsequent application in the matter of the estate by him or by any other person may be made to the judge of the surrogate court for an adjoining county who has the same authority as to such application and generally in all matters connected with the estate as if he were the judge of the surrogate court having jurisdiction, and he is entitled to the same fees as he would have been entitled to if the application had been made or proceedings had been taken in the court of which he is judge. R.S.O. 1950, c. 380, s. 25, *amended*. Where surrogate judge is applicant

**27.** Letters probate and letters of administration granted by a surrogate court not having jurisdiction to grant the same have, until revoked, the same force and effect as if they had been granted by a surrogate court having jurisdiction. R.S.O. 1950, c. 380, s. 26. Effect of probate granted without jurisdiction

Effect of  
probate and  
adminis-  
tration

**28.** Letters probate and letters of administration have effect in all parts of Ontario. R.S.O. 1950, c. 380, s. 27.

Trial of  
questions of  
fact by a  
jury

**29.**—(1) The court may cause any question of fact arising in any proceeding therein to be tried by a jury before the judge of the court, and such trial shall take place at some ensuing sittings of the county court for the county, and be conducted in the same manner as other trials by jury in such court, and the parties are entitled to their right of challenge, and for all purposes of or incidental to the trial of questions of fact by a jury the court and the judge thereof have the same jurisdiction, power and authority in all respects as belong to the county courts and the judges thereof for like purposes.

The issue

(2) The question directed to be tried by a jury shall be reduced to writing in such form as the court directs. R.S.O. 1950, c. 380, s. 28.

Production  
of instru-  
ments pur-  
porting to  
be testa-  
mentary

**30.**—(1) Whether a suit or other proceeding is or is not pending in the court with respect to a probate or administration, every surrogate court may, on motion or otherwise in a summary way, order any person to produce and bring before the registrar, or otherwise as the court directs, any paper or writing being or purporting to be testamentary that is shown to be in the possession or under the control of such person.

Examination  
of persons  
touching  
such instru-  
ments

(2) If it is not shown that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or before the registrar, or such person as the court directs, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person is subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the court and had made such default, and the costs of such motion or other proceeding are in the discretion of the court. R.S.O. 1950, c. 380, s. 29.

Removal of  
proceeding  
to Supreme  
Court

**31.**—(1) Any contentious cause or proceeding may be removed into the Supreme Court by order of a judge of such court if it is of such a nature and of such importance as to render it proper that it should be disposed of by the Supreme Court, and the property of the deceased exceeds \$2,000 in value.

Terms

(2) The judge may impose such terms as to payment of or security for costs or otherwise as he deems just.

(3) The judgment of the Supreme Court in any cause or proceeding so removed shall be certified to the registrar of the surrogate court from which the cause or proceeding was removed. R.S.O. 1950, c. 380, s. 30. Transmission of judgment to surrogate court

**32.**—(1) Any party or person taking part in the proceedings may appeal to the Court of Appeal from any order, determination or judgment of a surrogate court or a judge thereof in any matter or cause if the value of the property affected by such order, determination or judgment exceeds \$200. Right of appeal

(2) Where the claimant or personal representative having a right of appeal does not appeal from the order, judgment or determination, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Court of Appeal, appeal therefrom. Rights of persons interested to appeal

(3) The Official Guardian or any person beneficially interested in the estate, may, by leave of a judge of the Court of Appeal, appear and be heard upon any such appeal. Rights of persons interested to be heard at appeal

(4) Every appeal under this section shall be made by notice of motion served upon all parties interested within thirty days after the date of the judgment, determination or order appealed from, and when the circumstances of any case in the opinion of a judge of the Court of Appeal so warrant, he may permit service to be effected by registered mail. Manner and time of appeal

(5) The time limited for appeal by this section may be extended by a judge of the Court of Appeal either before or after the expiry of the time limit. Extension of time for appeal

(6) The rules of court apply to such appeals. R.S.O. 1950, c. 380, s. 31. Rules of court

**33.**—(1) On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application, and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. Where deceased resided in Ontario

(2) Where upon the application for probate of the will of a person who at the time of the execution of the will was a member of the forces or was a mariner or seaman at sea or in the course of a voyage it appears that the witnesses are dead or are incompetent or that the whereabouts of the witnesses, Death or absence of witnesses of will of member of forces or mariner

or either of them, is unknown, the judge of the surrogate court to whom the application is made may accept such evidence as he considers satisfactory as to the validity and proper execution of such will, notwithstanding anything in this Act or in the rules or regulations of the surrogate court to the contrary.

Interpre-  
tation

(3) In subsection 2, "members of the forces" means a member of the naval, military or air forces of Canada who, having been placed on active service or called out for training, service or duty, was serving in any of such forces.

Probate not  
to be granted  
until judge  
has proof of  
no under-  
valuation

(4) No probate or letters of administration shall be granted until the judge is satisfied that there is no undervaluation of the estate of which probate or administration is being sought.

Issue of  
probate  
before  
valuation

(5) In cases where there is a necessity for the speedy issue of probate or administration and there is difficulty in ascertaining the true valuation of an estate, the judge may report the same to the Treasurer of Ontario, and such probate or administration may be issued upon the written consent of the Treasurer or someone authorized by him to consent in such cases.

Rules and  
regulations

(6) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules and regulations for the better carrying out of subsections 4 and 5. R.S.O. 1950, c. 380, s. 32.

Where  
deceased had  
no fixed  
place of  
abode in  
Ontario

**34.** On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property in the county to the surrogate court of which the application is made, or leaving no property in Ontario, as the case may be, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1950, c. 380, s. 33.

Conclusive-  
ness of  
affidavits

**35.** The affidavit as to the place of abode and property of the deceased under sections 33 and 34, for the purpose of giving a particular court jurisdiction is conclusive for the purpose of authorizing the exercise of such jurisdiction, and no grant of probate or administration is liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode in the particular county, or had not property therein at the time of his death, but in case it is made to appear to the judge of the surrogate court before whom the application is pending that the place of abode of the deceased,

or the situation of his property, has not been correctly stated in the affidavit, the judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he deems just. R.S.O. 1950, c. 380, s. 34.

**36.** Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin, or others having or pretending interest in the property of the deceased, resident in Ontario, to show cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the surrogate court rules. R.S.O. 1950, c. 380, s. 35.

Proof, etc.,  
requisite for  
obtaining  
grant to  
party not  
next of kin  
to intestate

**37.**—(1) If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the court having jurisdiction may grant a temporary administration to the applicant; or to such other person as the court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario.

Temporary  
administra-  
tion in  
certain cases

(2) The administrator so appointed shall give such security as the court directs, and has all the rights and powers of a general administrator, and is subject to the immediate control of the court. R.S.O. 1950, c. 380, s. 36.

Security to  
be given

**38.** Subject to subsection 3 of section 75, a notarial will made in the Province of Quebec may be admitted to probate without the production of the original will upon filing a notarial copy thereof together with the other proper proofs to lead grant. R.S.O. 1950, c. 380, s. 37.

Quebec  
notarial  
wills

**39.** Notice of every application for the grant of probate or administration shall be transmitted by the registrar by registered mail to the Registrar of the Supreme Court by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as are prescribed by the surrogate court rules. R.S.O. 1950, c. 380, s. 38.

Notice to  
Registrar of  
the Supreme  
Court of  
applications

**40.** Unless upon special order of the court, no probate or administration shall be granted until the registrar has received a certificate under the hand of the Registrar of the Supreme Court that no other application appears to have been made in

Certificate  
from Regis-  
trar of the  
Supreme  
Court

respect of the property of the deceased, which certificate the Registrar of the Supreme Court shall forward as soon as may be to the registrar. R.S.O. 1950, c. 380, s. 39.

Registrar of  
the Supreme  
Court to file  
notices

**41.** All notices in respect of applications shall be filed and kept by the Registrar of the Supreme Court. R.S.O. 1950, c. 380, s. 40.

Duty of  
Registrar of  
the Supreme  
Court with  
reference to  
notices

**42.** The Registrar of the Supreme Court shall, with reference to every such notice, examine all notices of such applications received from the several registrars so far as appears to be necessary to ascertain whether or not application for probate or administration in respect of the property of the deceased has been made in more than one surrogate court, and he shall communicate with the registrars as occasion requires in relation to such applications. R.S.O. 1950, c. 380, s. 41.

Where  
application  
made to  
more than  
one surro-  
gate court

**43.—(1)** Where it appears by the certificate of the Registrar of the Supreme Court that application for probate or administration has been made to two or more surrogate courts, the judges of such courts respectively shall stay proceedings therein, leaving the parties to apply to a judge of the Supreme Court for such direction in the matter as he deems necessary.

Judgment as  
to what court  
has juris-  
diction

**(2)** On application made to such judge, he shall inquire into the matter in a summary way and adjudge and determine what surrogate court has jurisdiction.

Order as to  
costs

**(3)** The judge may order costs to be paid by any of the applicants, and the order shall be enforced by the Supreme Court.

Judge's  
decision  
final

**(4)** The determination of the judge is final and conclusive, and the Registrar of the Supreme Court shall without delay transmit a certified copy of the judge's order to the registrars of the surrogate courts wherein such applications were made. R.S.O. 1950, c. 380, s. 42.

Caveats

**44.** Caveats against the grant of probate or administration may be lodged with the Registrar of the Supreme Court or with the registrar of a surrogate court. R.S.O. 1950, c. 380, s. 43.

Notice of  
caveats

**45.** Upon a caveat being lodged, the registrar shall without delay send a copy thereof to the Registrar of the Supreme Court to be entered among the caveats lodged with him, and, upon notice of an application being received from the registrar of a surrogate court under section 39, the Registrar of the Supreme Court shall without delay forward to him notice of any caveat that has been so lodged touching such application,



and the notice shall accompany or be embodied in the certificate mentioned in section 40. R.S.O. 1950, c. 380, s. 44.

**46.** Where proceedings are taken for proving a will in solemn form or for revoking the probate of a will on the ground of the invalidity thereof or where in any other contentious cause or matter the validity of a will is disputed, all persons having or pretending to have an interest in the property affected by the will may, subject to this Act and to the surrogate court rules, be summoned to see the proceedings and may be permitted to become parties, subject to such rules and to the discretion of the court. R.S.O. 1950, c. 380, s. 45.

**47.** The court having jurisdiction may summon any person named executor of any will to prove, or refuse to prove, such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. R.S.O. 1950, c. 380, s. 46.

**48.** When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, his right in respect of the executorship wholly ceases, and the representation to the testator, and the administration of his property, without any further renunciation, goes, devolves, and is committed in like manner as if such person had not been appointed executor. R.S.O. 1950, c. 380, s. 47.

**49.**—(1) Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of the infant or to such other person as the court thinks fit, until the infant has attained the full age of twenty-one years, at which time, and not before, probate of the will may be granted to him. R.S.O. 1950, c. 380, s. 48.

(2) The person to whom such administration is granted has the same powers as an administrator has by virtue of an administration granted to him *durante minore ætate* of the next of kin. R.S.O. 1950, c. 380, s. 49.

**50.** An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration may be obtained from the registrar on payment of the prescribed fees. R.S.O. 1950, c. 380, s. 50.

**51.** Pending an action touching the validity of the will of a deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the surrogate court having jurisdiction to grant administration in the case of

intestacy may appoint an administrator of the property of the deceased person, and the administrator so appointed has all the rights and powers of a general administrator, other than the right of distributing the residue of the property, and every such administrator is subject to the immediate control and direction of the court, and the court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the court deems proper. R.S.O. 1950, c. 380, s. 51.

To what persons administration shall be granted

**52.**—(1) Subject to subsection 3, where a person dies intestate or the executor named in the will refuses to prove the will, administration of the property of the deceased may be committed by the surrogate court having jurisdiction to the husband, or to the wife, or to the next of kin, or to the wife and next of kin, as in the discretion of the court seems best, and, where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where only one desires the administration as next of kin where there are more persons than one of equal kindred, the administration may be committed to such one or more of such next of kin as the court thinks fit.

Appointment at request of parties interested

(2) Subject to subsection 3, where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof, or an executor willing and competent to take probate and the persons entitled to administration, or a majority of such of them as are resident in Ontario, request that another person be appointed to be the administrator of the property of the deceased, or of any part of it, the right that such persons possessed to have administration granted to them in respect of it belongs to such person.

General power as to appointment of administrator under special circumstances

(3) Where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it is not obligatory upon the court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the court may appoint such person as it thinks fit upon his giving such

security as it directs, and every such administration may be limited as it thinks fit.

(4) A trust company may be appointed as administrator under subsection 2 or 3, either alone or jointly with another person. R.S.O. 1950, c. 380, s. 52. Appointment of trust company

**53.** After a grant of administration, no person, other than the administrator or executor, has power to sue or prosecute any action or otherwise act as executor of the deceased as to the property comprised in or affected by such grant of administration until such administration has been recalled or revoked. R.S.O. 1950, c. 380, s. 53. After grant of administration no person to act as executor

**54.** A person entitled to letters of administration to the property of a deceased person is entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1950, c. 380, s. 54. Administration limited to personal estate

**55.—(1)** The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true and perfect inventory, verified by the oath of the applicant, of all the property that belonged to the deceased at the time of his death. Filing inventory

(2) When after the grant of probate or letters of administration any property belonging to the deceased at the time of his death and not included in such inventory is discovered by the executor or administrator, he shall, within six months thereafter, make and deliver to the registrar an inventory, duly verified by oath, of such newly discovered property. Further inventory of subsequently discovered property

(3) Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in such inventory the property intended to be affected by such application or grant. R.S.O. 1950, c. 380, s. 55. Inventory in case of limited grant

**56.—(1)** Where after a grant has issued out of the surrogate court the value of the estate has been increased for succession duty purposes, the executor or administrator shall forthwith pay to the registrar of the court from which the grant issued the additional fees that would have been payable at the time of the issue had the value of the estate been placed at the amount to which it has been so increased, and the registrar shall account for such additional fees in the same manner as if they had been paid at the time of the issue of the grant. R.S.O. 1950, c. 380, s. 56. Fees on increased valuation

(2) Where after a grant has issued out of the surrogate court the value of the estate has been decreased for succession duty purposes, the executor or administrator may apply to Fees on decreased valuation

the registrar of the court from which the grant issued for a refund of the amount of the difference between the amount of the fees paid and the amount of the fees that would have been payable at the time of the issue had the value of the estate been placed at the amount to which it was so decreased, and the registrar shall make such refund and amend his records accordingly. 1955, c. 85, s. 1.

Conse-  
quences  
upon execu-  
tor renounc-  
ing

**57.** Where a person renounces probate of the will of which he is appointed an executor, his rights in respect of the executorship wholly cease, and the representation to the testator and the administration of his property, without any further renunciation, goes, devolves and is committed in like manner as if such person had not been appointed executor. R.S.O. 1950, c. 380, s. 57.

Bonds

**58.** Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the judge of the court by which the grant is made, to enure for the benefit of the judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose, with a surety or sureties as may be required by the judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the surrogate court rules, and in cases not provided for by the rules, the bond shall be in such form as the judge by special order directs. R.S.O. 1950, c. 380, s. 58.

When secur-  
ity not  
required

**59.** It is not necessary for the Government of Ontario or any department thereof or any Provincial commission or board created under any Act of the Legislature to give any security for the due performance of its duty as executor, administrator, trustee, committee, or in any other office to which it may be appointed by order of the court or under any Act. R.S.O. 1950, c. 380, s. 59.

Amount of  
security

**60.**—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, and the judge may direct that more than one bond be given so as to limit the liability of any surety to such amount as the judge deems proper.

Power to  
reduce  
amount

(2) The judge may at any time under special circumstances reduce the amount of or dispense with the bond. R.S.O. 1950, c. 380, s. 60.

**61.** The judge on application made in a summary way and on being satisfied that the condition of the bond has been broken may order the registrar to assign the bond to some person to be named in the order, and such person is thereupon entitled to sue on the bond in his own name as if it had been originally given to him, and shall recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1950, c. 380, s. 61.

Power of  
courts as to  
assignment  
of bonds

**62.** The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians, and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. R.S.O. 1950, c. 380, s. 62.

Accounts to  
be rendered

**63.**—(1) Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient, the judge may require other or additional security to be furnished, and if it is not furnished as directed by the judge, he may revoke the grant of administration or letters of guardianship.

New or  
additional  
security in  
certain cases

(2) The order may be made by the judge *sua sponte* or on the application of any person interested. R.S.O. 1950, c. 380, s. 63.

Order by  
judge *sua  
sponte* or on  
application

**64.**—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation or where an administrator or guardian desires to substitute other security for that furnished by him, the judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as he deems proper, and he may direct that, on the substituted security being furnished, and, if the judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged.

Substitution  
of security

(2) The application may be made *ex parte* or on such notice as the judge directs. R.S.O. 1950, c. 380, s. 64.

How applica-  
tion made

**65.** Where an executor or administrator has passed his final account and has paid into court or distributed the whole of the property of the deceased that has come to his hands, the judge may direct the bond or other security furnished by the executor or administrator to be delivered up to be cancelled. R.S.O. 1950, c. 380, s. 65.

Cancellation  
of security

Cancellation  
of bond of  
administra-  
tor in  
distribution  
of estate

**66.** Where an executor or administrator has produced evidence to the satisfaction of the judge that the debts of the deceased have been paid and the residue of the estate duly distributed, the judge may make an order directing the bond or other security furnished by the executor or administrator to be delivered up to be cancelled, but where an infant was or is entitled to a part of the estate under the distribution, the order shall not be made until after such notice as the judge directs has been given to the Official Guardian, and where any person who is a patient in an institution under *The Mental Hospitals Act* was or is entitled to a part of the estate under the distribution, the order shall not be made until after like notice has been given to the Public Trustee. R.S.O. 1950, c. 380, s. 66.

R.S.O. 1960,  
c. 236

Contestation  
of claims  
against  
estate

**67.—(1)** Where a claim or demand is made against the estate of a deceased person or where the personal representative has notice of such claim or demand, he may serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part, and also referring to this section.

Application  
for order  
allowing  
claim

(2) Within thirty days after the receipt of such notice of contestation or within three months thereafter if the judge of the surrogate court on application so allows, the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he deems just, and if the claimant does not make such application, he shall be deemed to have abandoned his claim and it is forever barred.

Claim within  
jurisdiction  
of division  
court

(3) Where the claim is within the jurisdiction of the division court, an application for the extension of time referred to in subsection 2 and the application for the order shall be made to the judge of a division court in which an action for the recovery of the claim might be brought, and the application for the order shall be heard by the judge at the sittings of such court, but where the claimant and the personal representative consent, the applications may be made to the judge of the surrogate court.

Notice in  
such cases

(4) Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the judge of the surrogate court, shall also be given to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge directs.

(5) Where the application is made to the judge of the surrogate court, in addition to the persons to whom notice has been given, any other person who is interested in the estate has the right to be heard and to take part in the proceedings.

Right of persons interested to be heard

(6) Where the claim, or the part of it that is contested, amounts to \$800 or more, instead of proceeding as provided by this section, the judge shall, on the application of either party, or of any of the parties mentioned in subsection 5, direct the creditor to bring an action for the recovery or the establishment of his claim, on such terms and conditions as the judge deems just; provided that the claimant and the personal representative may consent to have the trial before the judge of the surrogate court and in that case the trial shall take place and be disposed of before the surrogate court judge under this section.

Consent to jurisdiction of surrogate court in certain cases

(7) Where the claim is within the jurisdiction of the division court, the fees and costs shall be according to the tariff of that court and in other cases the fees payable to the judge of the surrogate court and to the registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested, and the fees to be allowed to counsel or solicitors shall be fixed and determined by the surrogate judge having regard to the amount involved and the importance of the contest.

Fees and costs when claim within division court jurisdiction

(8) This section applies, notwithstanding that the claim or demand is not presently payable, and that, for that reason, an action for the recovery of it could not be brought.

Claims not presently payable

(9) The judge may order the issue of a commission to take the testimony of any person or party residing out of Ontario.

Application for order allowing commission

(10) The judge may make an order for the taking of the evidence of any material and necessary witness residing in Ontario who is sick, aged or infirm or is about to leave Ontario *de bene esse* and provide to whom notice of the examination is to be given.

Judge may make an order appointing a person to take testimony

(11) A subpoena may be issued to enforce the attendance of witnesses to give evidence on any proceeding under this section.

Right to issue subpoenas

(12) The rules of the Supreme Court so far as they are applicable apply to every application for such commission or order for examination, the issue, execution, enforcement and return thereof and the judge has power to award costs of all such proceedings according to the tariff in force from time to time for like services in county courts.

Rules of Supreme Court apply

Permission  
for enforce-  
ment of  
judgment

(13) Where a claim is established under this section, no proceedings shall be taken to enforce payment of the claim without the permission of the judge.

Enforce-  
ment of  
judgment

(14) Where permission to enforce payment of a claim is given, the order shall be filed in the county court and an execution shall issue as upon a judgment of that court and an order for payment of costs may be entered in the same way. R.S.O. 1950, c. 380, s. 67.

Notice of  
contestation  
of unliqui-  
dated claims

**68.**—(1) Where any claim or demand not within the meaning of subsection 1 of section 67 is made against the estate of a deceased person or where the personal representative has notice or knowledge of the claim or demand, he may serve the claimant with the notice prescribed in the said subsection.

Application  
by claimant  
for order for  
directions

(2) Within the time limits mentioned in subsection 2 of section 67, the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order for directions as to the disposition of the claim or demand, and if the claimant does not make the application he shall be deemed to have abandoned his claim, and it shall be forever barred.

Notice in  
such cases

(3) Not less than seven days notice of the application shall be given to the personal representative and to the Official Guardian if infants are concerned and to such, if any, of the persons beneficially interested in the estate as the judge directs.

Powers of  
judge

(4) The judge shall make such order upon the application for directions as he deems just and, in particular but without limiting the generality of the foregoing, he may,

(a) direct the claimant to bring an action for the recovery or establishment of his claim on such terms and conditions as he deems just; and

(b) where the claim or demand is not presently recoverable, prescribe the time after which the claimant shall proceed pursuant to the directions.

Idem

(5) By consent of the claimant and personal representative, the judge may direct that the trial take place and be disposed of before the surrogate court judge.

Application  
of parts  
of s. 67

(6) When an order is made under subsection 4, subsections 9, 10, 11 and 12 of section 67 apply.

Right of  
persons  
interested  
to appeal

(7) If the personal representative does not appeal from an order made under subsection 2 or 4, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Supreme Court, appeal therefrom.



(8) Where the claimant or the personal representative appeals from an order made under subsection 2 or 4, the Official Guardian and any person beneficially interested in the estate may, by leave of the court that hears the appeal, appear and be heard. R.S.O. 1950, c. 380, s. 68.

Right of  
persons  
interested  
to be heard  
on appeal

**69.** Where the personal representative of a person claims the ownership of any personal property not exceeding in value \$800 and his claim is disputed by any other person, the dispute may be determined in a summary manner and section 67 applies *mutatis mutandis*. R.S.O. 1950, c. 380, s. 69.

Summary  
determina-  
tion of dis-  
putes as to  
ownership

**70.**—(1) *The Limitations Act* does not affect the claim of a person against the estate of a deceased person where notice of the claim giving full particulars of the claim and verified by affidavit, is filed with the executor or administrator of the estate at any time prior to the date upon which the claim would be barred by *The Limitations Act*, but where no executor or administrator has been appointed, the notice may be filed in the office of the registrar of the surrogate court of the county where the deceased person resided at the date of his death.

R.S.O. 1960,  
c. 214  
not to  
apply in  
certain  
cases

(2) Where the claim of a person against any other person would be barred by *The Limitations Act* at any time within three months after the death of the person having the claim, the claim shall for all purposes be deemed not to be barred until three months after the date of such death. R.S.O. 1950, c. 380, s. 70.

Special  
provision

**71.** An executor who is also a trustee under the will may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. R.S.O. 1950, c. 380, s. 71.

Accounting  
by executor  
trustee

**72.**—(1) Where an executor, administrator, trustee under a will of which he is an executor, or a guardian, has filed in the proper surrogate court an account of his dealings with the estate, and the judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the Supreme Court, such approval, except so far as mistake or fraud is shown, is binding upon any person who was notified of the proceedings taken before the surrogate judge or who was present or represented thereat and upon every one claiming under any such person.

Effect of  
approval of  
accounts by  
surrogate  
judge

(2) A guardian appointed by the surrogate court may pass the accounts of his dealings with the estate before the judge of the court by which letters of guardianship were issued.

Passing ac-  
counts by  
guardians

Powers of  
judge on  
passing  
accounts

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and the administration and disbursement thereof in as full and ample a manner as may be done in the Master's office under an administration order, and, for such purpose, may take evidence and decide all disputed matters arising in such accounting, subject to appeal.

Further  
powers

(4) The judge, on passing any accounts under this section, has power to inquire into any complaint or claim by any person interested in the taking of the accounts, of misconduct, neglect, or default on the part of the executor, administrator or trustee, occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise, as he deems proper and just to the estate or trust fund, but any order made under this subsection is subject to appeal.

May order  
trial and give  
directions as  
to pleadings,  
etc.

(5) The judge may order the trial of an issue of any complaint or claim under subsection 4, and in such case he shall make all necessary directions as to pleadings, production of documents, discovery and otherwise in connection with the issue.

Removal to  
Supreme  
Court

(6) Any person interested in the taking of such accounts, or any executor, administrator or trustee against whom any complaint or claim has been made on the passing of such accounts as provided in subsection 4 may apply to a judge of the Supreme Court for an order removing the proceedings to the Supreme Court, if in his opinion the claim is of such a nature or of such importance as to render it proper that it should be disposed of by the Supreme Court, and for the purpose of making such application, the applicant is entitled to an adjournment of the proceedings in the surrogate court.

Notice to  
persons  
interested

(7) The persons interested in the taking of such accounts or the making of such inquiries are, if resident in Ontario, entitled to not less than seven days notice thereof, and, if resident out of Ontario, are entitled to such notice as the judge directs. R.S.O. 1950, c. 380, s. 72 (1-7).

Notice to  
persons  
under  
disability  
R.S.O. 1960,  
c. 236

(8) Where a person entitled to notice under subsection 7 is an infant or is of unsound mind and is not a patient in an institution under *The Mental Hospitals Act*, his notice shall be served upon the Official Guardian not less than twenty-one days before the day appointed for the passing of the accounts, and unless such notice is so given such person is not bound by the passing of the accounts.

(9) Where a person entitled to notice under subsection 7 is a patient in an institution under *The Mental Hospitals Act*, his notice shall be served upon the Public Trustee not less than twenty-one days before the day appointed for the passing of the accounts, and unless such notice is so given such person is not bound by the passing of the accounts. 1959, c. 98, s. 1. 7 Idem, in mental hospital

(10) Where by the terms of a will or other instrument in writing under which such an executor, administrator or trustee acts, real or personal property or any right or interest therein, or proceeds therefrom have heretofore been given, or are hereafter to be vested in any person, executor, administrator or trustee for any religious, educational, charitable or other purpose, or are to be applied by him to or for any such purpose, notice of taking the accounts shall be served upon the Public Trustee. Notice of taking accounts to be served on Public Trustee

(11) Where a person has died intestate in Ontario and administration has been granted to some person, not one of the next of kin, and it appears to be doubtful whether the intestate left any next of kin him surviving or that there are no known next of kin resident in Ontario, notice of taking the accounts shall be served upon the Public Trustee. Where person to whom administration granted is not next of kin

(12) Where accounts submitted to the judge of a surrogate court are of an intricate or complicated character and in his opinion require expert investigation, he may appoint an accountant or other skilled person to investigate and to assist him in auditing the accounts. R.S.O. 1950, c. 380, s. 72 (9-11). Appointment of expert on examination of accounts

**73.**—(1) An executor or an administrator shall not be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor is an executor or administrator otherwise compellable to account before any judge. At whose instance executors or administrators compellable to account

(2) This section applies notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. R.S.O. 1950, c. 380, s. 73. Application

**74.**—(1) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed in value \$400, the registrar shall prepare the necessary papers leading to the grant sought, including all papers and proofs required by *The Succession Duty Act*, and the bond, if any, and he shall administer the necessary oaths, and the total amount to be charged to the applicant for all the proceedings and services shall be \$2. Fees where estate does not exceed \$400

R.S.O. 1960, c. 386

Where prop-  
erty does  
not exceed  
\$1,000

(2) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed \$1,000, the fees payable to the judge and the registrar shall be one-half of the fees payable according to the tariff in the case of an estate not exceeding in value \$1,000.

Judge may  
satisfy him-  
self as to  
real value

(3) If the judge has reason to believe that the property exceeds in value \$1,000, he shall refuse to proceed with the application until he is satisfied as to the real value.

Fees where  
estate con-  
sists of  
insurance  
moneys and  
wearing  
apparel

(4) Subject to subsection 1, where the whole property of the deceased or of the ward consists of insurance money or of insurance money and wearing apparel, although general letters probate, general letters of administration or letters of guardianship are sought, the fees payable thereon shall be as follows:

- 1. Where the insurance money does not exceed \$1,000..... \$4
- 2. Where the insurance money exceeds \$1,000 but does not exceed \$2,000..... \$6
- 3. Where the insurance money exceeds \$2,000 but does not exceed \$3,000..... \$8

Apportion-  
ment of  
fees

(5) The Lieutenant Governor in Council may apportion the fees payable between the judge and the registrar.

Fees to be  
exclusive of  
fees payable  
to Crown

(6) The fees prescribed by this section are exclusive of any other fees payable to the Crown, and do not include the fees payable in respect of contentious business. R.S.O. 1950, c. 380, s. 74.

Manner of  
giving effect  
to grants of  
probate, etc.,  
of English or  
Colonial  
Courts

**75.**—(1) Where probate or letters of administration or other legal document purporting to be of the same nature granted by a court of competent jurisdiction in the United Kingdom or in a province or territory of Canada or in any other British possession is produced to and a copy thereof deposited with the registrar of any surrogate court and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration, or other document shall, under the direction of the judge, be sealed with the seal of the surrogate court, and thereupon is, as to personal property, of the like force and effect in Ontario as if the same had been originally granted by such surrogate court, and is, so far as regards Ontario, subject to any order made by such court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby.

Letters of  
verification  
in Quebec

(2) Subject to subsection 3, letters of verification issued in the Province of Quebec shall be deemed to be a probate within the meaning of this section.

(3) Where it has been shown that the will was executed in manner and form sufficient to pass real property in Ontario under *The Wills Act* and the judge so certifies, the sealing has the same effect as to real property as if probate had been granted by the surrogate court. Effect of re-sealing as to real property R.S.O. 1960, c. 433

(4) The letters of administration shall not be sealed with the seal of the surrogate court until a certificate has been filed under the hand of the registrar of the court which issued the letters that security has been given in such court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such court as the assets within Ontario, or in the absence of such certificate, until like security is given to the judge of the surrogate court covering the assets in Ontario as in the case of granting original letters of administration. Security required  
R.S.O. 1950, c. 380, s. 75.

**76.**—(1) The fees payable to the Crown are payable in law stamps and the fees payable to the judge are payable in law stamps except in a county where the Lieutenant Governor in Council provides otherwise. 1957, c. 119, s. 4. Where fees payable in law stamps

(2) The stamps in respect of a grant of probate or administration or guardianship shall be affixed to the order for the grant and not to the probate or letters of administration or guardianship. R.S.O. 1950, c. 380, s. 76 (2). Affixing stamps

**77.**—(1) The fees payable upon the value of the estate of the deceased shall be calculated upon the value of the whole estate, including the real estate as well as the personal estate. Fees to be on value of whole estate

(2) In calculating the value of the real property, there shall be deducted the actual value of any encumbrance thereon. Deduction  
R.S.O. 1950, c. 380, s. 77.

**78.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may, Rules Committee may make rules

- (a) make rules for regulating the practice and procedure in the surrogate courts;
- (b) make rules and regulations regulating and fixing all fees payable to the Crown, the judge, the registrar, and other officers of the court, and fees and expenses payable to witnesses, in respect of proceedings in such courts;
- (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;

(d) prescribe forms for use in such courts.

Existing  
rules, tariff  
and forms

(2) The existing rules, fees payable to the Crown, fees to be allowed to solicitors and forms remain in force until altered, amended or revoked. R.S.O. 1950, c. 380, s. 78.

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## CHAPTER 389

**The Surveyors Act****1.** In this Act,Interpre-  
tation

- (a) "Association" means the Association of Ontario Land Surveyors;
- (b) "board" means the board of examiners of the Association;
- (c) "council" means the council of management of the Association;
- (d) "Minister" means the Minister of Lands and Forests;
- (e) "surveyor" means a person who practises the profession of land surveyor, or a person, other than an employee of an Ontario land surveyor, who for gain either by himself or by some other person surveys, establishes, locates or defines any boundary, limit or angle of any land, location, claim, limit, common, road, street, lane, way, gore, reserve, concession, section, block, lot, village, town, city, township or other parcel of land or division or property. R.S.O. 1950, c. 196, s. 1.

**2.—(1)** No person shall act as a surveyor in Ontario unless <sup>Who may act as a surveyor</sup> authorized to practise as a land surveyor according to the provisions of this Act, or so authorized before the passing thereof according to the laws then in force, and unless registered under this Act.

(2) Every person who contravenes this section is guilty of <sup>Offence</sup> an offence and on summary conviction is liable to a fine of \$40. R.S.O. 1950, c. 196, s. 2.

**3.—(1)** The Association of Ontario Land Surveyors is <sup>Association continued</sup> hereby continued and all persons who are now members of the Association shall continue to be members thereof subject to the by-laws of the Association and this Act.

(2) All persons duly authorized to practise as surveyors <sup>New members</sup> shall, upon becoming duly registered as hereinafter provided, become members of the Association. R.S.O. 1950, c. 196, s. 3.

**4.** All fines and fees payable under this Act or under any <sup>Fines and fees</sup> by-law of the Association belong to the Association. R.S.O. 1950, c. 196, s. 4.

Powers as to  
real estate

**5.** The Association may purchase, take and possess real estate for the purposes of the Association, but for no other purpose, and after acquiring it, may sell, mortgage, lease or dispose of it. R.S.O. 1950, c. 196, s. 5.

Council of  
management

**6.—(1)** The council shall consist of the Minister or his appointee, the Surveyor General of Ontario, the president and the vice-president of the Association, and six other elective members to be elected and hold office as hereinafter provided.

Chairman  
and officers

**(2)** The council shall elect annually one of its members as chairman, and may appoint from among the members of the Association such other officers as are deemed necessary for carrying out the objects of this Act, and such appointed officers shall hold office during the pleasure of the council. R.S.O. 1950, c. 196, s. 6.

Invest-  
ments

**7.** The council may invest, in the name of the Association, any moneys of the Association in such securities as trustees may properly invest in, and the income derived therefrom shall form part of the ordinary income of the Association. R.S.O. 1950, c. 196, s. 7.

By-laws

**8.—(1)** The Association may pass by-laws for,

- (a) the government, discipline and honour of its members;
- (b) the management of its property;
- (c) the examination and admission of candidates for the study or practice of the profession;
- (d) the fixing of the dates and places of annual general meetings of the Association and meetings of the council;
- (e) the fixing, levying and collecting of a fee for registration or transfer of articles of apprenticeship or for a certificate to practise or for registration as a surveyor in active practice and for official notice of registration in *The Ontario Gazette*, and for the fixing, levying and collecting of an annual fee from each member;
- (f) all such other purposes as are necessary for carrying out the objects of the Association. R.S.O. 1950, c. 196, s. 8 (1); 1956, c. 37, s. 1.

Ratification

**(2)** All by-laws shall be passed by the council and shall be ratified by the Association at the next annual general meeting or at a special general meeting called for the purpose. R.S.O. 1950, c. 196, s. 8 (2).



**9.**—(1) Upon the written request of any ten members of the Association in good standing or of the council, the president, or in his absence the vice-president, may call a special general meeting to be held in the City of Toronto at a time not more than thirty days after the receipt of such request. <sup>Special general meeting</sup>

(2) Notice of any such meeting shall be given by the secretary-treasurer to each member of the Association by letter mailed to his registered address at least fourteen days before such meeting. <sup>Notice</sup> R.S.O. 1950, c. 196, s. 9 (2, 3).

**10.**—(1) The members of the Association shall elect annually from their number by sealed ballot (Form 1) the president, vice-president, secretary-treasurer and two auditors who shall hold office for one year from the termination of the annual general meeting, or until their successors in office have been elected, and two members of the council who shall hold office for three years from the termination of the annual general meeting, or until their successors in office have been elected. <sup>Election of president and officers of the Association</sup>

(2) No person is eligible for election to any office or to the council or qualified to fill any vacancy thereon or for appointment by the council to any office unless his fees have been paid and he is duly qualified under this Act and the by-laws of the Association. <sup>Qualification</sup> R.S.O. 1950, c. 196, s. 10.

**11.**—(1) A nominating committee of five members of the Association in good standing, other than members of the council, shall be elected by ballot at each annual general meeting to hold office until the next annual general meeting and it is the duty of the nominating committee to nominate before the 1st day of December in each year at least as many eligible members for each position as are required to be elected in accordance with section 10. <sup>Nominating committee</sup>

(2) The presiding officer at the meeting at which the nominating committee is elected shall appoint two scrutineers to count the votes cast for members of the nominating committee, and he shall have the casting vote in the case of a tie, and shall appoint one of the members elected to act as chairman and convener of the committee. <sup>Scrutineers and casting vote</sup> R.S.O. 1950, c. 196, s. 11.

**12.**—(1) The chairman of the nominating committee shall forthwith after the 30th day of November in each year forward to the secretary-treasurer, by registered mail, the list of persons nominated and the secretary-treasurer shall on or before the 10th day of December in that year mail a copy of the list to each member of the Association at his registered address. <sup>Nominations</sup>

Addition of  
names when  
required

(2) Any ten members of the Association in good standing may, by registered letter delivered to the secretary-treasurer at his office on or before the 31st day of December, require the secretary to add to the list of persons nominated the name or names of any other eligible members, and the names of the members so added, with the names of the members chosen by the nominating committee, shall be placed by the secretary on the ballot paper (Form 1). R.S.O. 1950, c. 196, s. 12.

Distribution  
and return  
of ballots

**13.**—(1) The ballot papers shall be mailed by the secretary-treasurer to each member of the Association at his registered address at least fourteen days before the annual meeting and shall be returned to the secretary-treasurer in a sealed envelope not later than ten o'clock in the forenoon of the day before the annual general meeting.

Scrutineers

(2) Two scrutineers shall be appointed by the president to examine and count the votes.

Counting  
ballots

(3) The ballot papers shall on the day before the annual meeting be opened by the secretary-treasurer in the presence of the scrutineers who shall examine and count the votes cast for the various candidates and keep a record thereof in a book provided for that purpose by the council. R.S.O. 1950, c. 196, s. 13.

Qualification  
of voters

**14.**—(1) The persons qualified to vote shall be such persons as are members of the Association and have paid all fees due from them to the Association.

Where  
voting paper  
has too  
many names

(2) In the event of an elector placing more than the required number of names upon the voting paper for members of the council, the first names only not exceeding the required number shall be counted.

Who may be  
present at  
counting of  
votes

(3) Any person entitled to vote at the election may be present at the counting of the votes. R.S.O. 1950, c. 196, s. 14.

Result of  
elections

**15.**—(1) The qualified persons who have the highest number of votes shall be declared elected.

Equality of  
votes

(2) In the case of equality of votes between two or more persons that leaves the election of one or more officers or members of the council undecided, the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates respectively having such equality of votes written thereon, one for each candidate, and the secretary-treasurer shall draw from the ballot box, in the presence of the scrutineers, one or more of the papers sufficient to make up the required number, and the person or persons whose name or names are upon the papers so drawn shall be the

officer or officers or the member or members of the council, as the case may be. R.S.O. 1950, c. 196, s. 15.

**16.** Upon the completion of the counting of the votes, the secretary-treasurer shall report the result of the election in writing signed by himself and the scrutineers to the president who shall announce the same at the annual general meeting. R.S.O. 1950, c. 196, s. 16. Result of election to be reported

**17.** In the case of the resignation, death or dismissal of the president, vice-president or any electoral member of the council, the other members of the council have power to fill any vacancy so caused, and the person so appointed shall hold office for the unexpired portion of the term. R.S.O. 1950, c. 196, s. 17. Vacancies

**18.** In case of doubt or dispute as to who has been elected or as to the legality of the election, the duly elected officers and members are a committee to inquire and decide the doubt or dispute, and the persons whom they decide to have been elected shall be deemed to have been duly elected, and, if the election is found to have been illegal, the committee shall order a new election. R.S.O. 1950, c. 196, s. 18. Disputed elections

**19.—(1)** The board of examiners shall consist of the chairman of the council, the secretary-treasurer, four other members of the Association to be appointed by the council and two to be appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 196, s. 19 (1, 2), *amended*. Board of examiners

**(2)** The six members so appointed shall hold office for three years. Term of office

**(3)** In the case of resignation, death or inability to act of any member of the board, the Lieutenant Governor in Council, if such member was appointed by him, and the council, if such member was appointed by it, shall appoint a member of the Association to be a member of the board for the unexpired portion of the term. To supply vacancies

**(4)** The chairman of the council is the chairman of the board and three members of the board form a quorum. Chairman, quorum

**(5)** The council may also appoint competent persons to assist the board in any of the subjects of examination, and may fix the expenses and fees to be paid to any of the examiners, subject to the restrictions hereinafter contained in respect of payments to members of the board. Examiners

**(6)** Each member of the board shall take and subscribe the following oath: Oath of examiner

I, ..... of .....  
having been appointed a member of the board of examiners  
under *The Land Surveyors Act*, do sincerely promise and swear  
that I will faithfully discharge the duties of such office without  
favour, affection or partiality. So help me God.

Sworn, etc.

R.S.O. 1950, c. 196, s. 19 (3-7).

Meeting,  
when and  
where held

**20.**—(1) The board shall meet in the City of Toronto on the first Monday in February in every year, and may adjourn such meeting from time to time. R.S.O. 1950, c. 196, s. 20 (1).

Payment of  
examiners

(2) The council shall for each day's attendance pay out of the funds of the Association to each member of the board who attends any examinations such sum as the council by by-law determines, and his travelling expenses. R.S.O. 1950, c. 196, s. 20 (2); 1956, c. 37, s. 3.

Certificate  
of quali-  
fication

**21.**—(1) The board shall grant a certificate (Form 2) authorizing to practise as a surveyor any person who,

- (a) has attained the age of twenty-one years;
- (b) has served faithfully and regularly for four years, at least two of which have been served in actual survey work in the field under an instrument in writing duly executed before two witnesses, as a student to a surveyor in actual practice and has received from such surveyor a certificate of his having so served or proves to the satisfaction of the board that he has so served or has been wholly or partly exempted from such apprenticeship by the board;
- (c) has passed, at least six months before presenting himself for the final examination, an intermediate examination in such subjects as the by-laws of the Association set out or such part thereof as is specified by the board;
- (d) has passed a final examination not more than six months before the termination of his apprenticeship, if any, in such subjects as the by-laws of the Association require or such part thereof as is specified by the board;
- (e) has paid all fees due from him to the Association;
- (f) has produced, if required by the board, satisfactory evidence as to probity and sobriety;
- (g) has entered into a joint and several bond to Her Majesty in the sum of \$1,000, conditioned for the faithful performance of the duties of his office to be

deposited in the office of the Treasurer of Ontario and enuring to the benefit of any person sustaining damage by breach of the conditions thereof with two sufficient sureties to the satisfaction of the board or the chairman or secretary-treasurer thereof;

- (h) has provided himself with a properly certified standard measure of length;
- (i) has taken and subscribed the oath of allegiance and the following oath of office before the chairman of the board or a member thereof deputed by the board for that purpose, which oaths of allegiance and office shall be deposited in the office of the Provincial Secretary:

I, ....., do solemnly swear that I will faithfully discharge the duties of an Ontario Land Surveyor according to the law, without favour, affection or partiality.

R.S.O. 1950, c. 196, s. 21; 1956, c. 37, s. 4 (1, 2), *amended*.

(2) The intermediate and final examinations shall be held in March and September of each year upon such day or days, and at such place or places as the council directs. Examinations

(3) Any person who has the educational standing mentioned in section 22, whether or not apprenticed, may take the intermediate examination. Qualification for intermediate examination

(4) The final examination may consist of two groups of subjects, one group designated as Part I and the other group designated as Part II. Final examination

(5) The council shall from time to time prescribe the fees payable by candidates for examination, which fees are payable in advance by the candidates. 1956, c. 37, s. 4 (3). Fees

**22.** A person may be apprenticed to a surveyor if he produces to the secretary-treasurer a certificate of educational standing as required for admission to the course in civil engineering in a university in Ontario or such other evidence of educational standing as in the opinion of the board is the equivalent thereof. 1956, c. 37, s. 5. Who may be apprenticed

**23.** Notwithstanding anything contained in section 21, Reduction of period of apprenticeship

- (a) any person who is a graduate in civil engineering, mining engineering or forestry of a university in Ontario or who is a graduate in any course of an educational institution that in the opinion of the board is the equivalent thereof shall serve two years

apprenticeship, one of which must be served in actual survey work in the field, and if such person has been a student to a surveyor in actual practice at any time during which he was an undergraduate he shall be granted up to one year in reduction of the period of such apprenticeship;

- (b) any person who is qualifying for a certificate under section 21 and who has served a surveyor before he was apprenticed under section 22 shall be granted up to one year in reduction of the period of apprenticeship; and
- (c) any person who has been on active service in the naval, military or air forces of Her Majesty or any of Her Majesty's allies shall only be bound to serve under such articles for such period of time as the board deems necessary after considering his training or experience in surveying or engineering before or during such service in the forces. R.S.O. 1950, c. 196, s. 23; 1956, c. 37, s. 6.

Exemption  
when  
qualified  
elsewhere

**24.** The board has power to grant exemption from the whole or part of the term of apprenticeship and from the whole or parts of the intermediate and final examinations in the case of a person who has attained the age of twenty-one years and has practised as a surveyor in any of Her Majesty's realms other than the Province of Ontario, and has satisfied the board that the qualifications for practising required in such realm are similar to those required in Ontario and has produced to the board his certificate or diploma; provided that the same or similar privileges are granted in such realm to Ontario land surveyors. R.S.O. 1950, c. 196, s. 24.

Provision in  
case of  
death, etc.,  
of employer

**25.** If a surveyor dies or leaves Ontario, or is suspended, dismissed or ceases to practise, his apprentice may complete his term of apprenticeship under an instrument in writing with any registered surveyor in actual practice. R.S.O. 1950, c. 196, s. 25.

Transfer of  
apprentice-  
ship

**26.—(1)** A surveyor may, with the consent of the apprentice by an instrument in writing, transfer him to another registered surveyor in actual practice with whom he may serve the remainder of the term of his apprenticeship. R.S.O. 1950, c. 196, s. 26.

Idem

**(2)** Upon cause shown to the council by an apprentice, the council may transfer the apprentice from the surveyor he is serving to another registered surveyor in actual practice with whom he may serve the remainder of the term of his apprenticeship. 1956, c. 37, s. 7.

**27.** Every agreement of apprenticeship to a surveyor shall be transmitted to the secretary-treasurer within two months of the date thereof for approval and registration, and, if approved, shall be registered by the secretary-treasurer in his office and notice of the registration forwarded by mail to the apprentice. R.S.O. 1950, c. 196, s. 27. Registration of apprenticeship agreements

**28.** Every person desiring to be examined by the board shall give notice thereof in writing to the secretary-treasurer at least one month before the meeting of the board. R.S.O. 1950, c. 196, s. 28. Notice by candidates for examination

**29.** Where the annual fees of a member remain unpaid for more than six years and the council is unable to grant total exemption for such period on the ground of extenuating circumstances, the member shall be suspended from membership in the Association until such fees are paid in full or in such part as the council deems just. R.S.O. 1950, c. 196, s. 29 (2). Suspension for non-payment of fees

**30.—(1)** The secretary-treasurer shall make and keep a correct register of all persons entitled to be registered under this Act, and shall enter opposite the name of a registered person who has died, a statement of the fact and shall make necessary alterations in the addresses of persons registered, and, subject to this Act, shall keep the register in accordance with the by-laws of the Association and the orders and regulations of the council. How register to be kept

**(2)** A registered surveyor desiring to give up practice may have his name removed from the register upon giving written notice to the secretary-treasurer of such desire and paying all fees due from him to the Association, and thereafter he is not liable to the Association for any annual or other fees, and may, upon like notice of his intention to resume practice and paying the annual fee for the year in which such notice is given, be again registered. Retirement from practice

**(3)** No name shall be entered in the register except of persons authorized by this Act to be registered nor unless the secretary-treasurer is satisfied by proper evidence that the person claiming to be entitled to be registered is so entitled, and any appeal from his decision shall be decided by the council, and any entry that is proved to the satisfaction of the council to have been fraudulently or incorrectly made shall be erased from or amended in the register by order of the council. Rectification of entries

**(4)** The Association may provide that any surveyor who has been in the actual practice of his profession for a period Exemption from annual fees

of thirty-five years or more and was during the entire period a duly qualified surveyor may be exempted from payment of the annual membership fee. R.S.O. 1950, c. 196, s. 30.

Annual  
register

**31.**—(1) The secretary-treasurer shall in every year cause to be printed and kept for inspection in his office an annual register in which shall be printed in alphabetical order the names and addresses of all persons authorized to practise as surveyors on the 1st day of June of that year.

Evidence of  
registration

(2) A copy of the annual register so printed is evidence in all courts and for all persons that the persons therein mentioned are registered under this Act.

Omission of  
name from  
copy

(3) In the case of a person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of such person in the register is like evidence that such person is registered under this Act. R.S.O. 1950, c. 196, s. 31.

Improper  
entry

**32.** If the secretary-treasurer wilfully makes or causes or allows to be made any falsification in any matter relating to the register he is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$50. R.S.O. 1950, c. 196, s. 32, *amended*.

Procuring  
entry by  
fraud

**33.** Any person who wilfully procures or attempts to procure registration under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$50 and the council may remove the name of the offender from the register. R.S.O. 1950, c. 196, s. 33, *amended*.

Right to  
use title

**34.**—(1) A person registered under this Act is entitled to take or use the name or title "Ontario Land Surveyor" and, unless so registered, no person is entitled to take or use the name or title "Ontario Land Surveyor" either alone or in combination with any other word or words, or any name, title or description implying that he is registered under this Act.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$20 for the first offence and not more than \$50 for each subsequent offence. R.S.O. 1950, c. 196, s. 34, *amended*.

Witness  
fees

**35.** Every surveyor summoned to attend any civil or criminal court for the purpose of giving evidence in his professional capacity or in consequence of any professional



service rendered by him is entitled to \$5 for each day he so attends, in addition to his travelling expenses, to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R.S.O. 1950, c. 196, s. 35.

**36.**—(1) Where after due inquiry by a committee of the Association, appointed pursuant to its by-laws, a surveyor has been found to have been guilty of gross negligence or of corruption in the execution of the duties of his office or of professional misconduct or of conduct apt to bring the profession into disrepute or where a surveyor has been convicted in Canada or elsewhere of an indictable offence, other than a political offence committed out of Her Majesty's dominions, the council by order may reprimand or censure such surveyor or may suspend him from membership and from registration for such time not exceeding one year as the council deems proper, or may expel him from membership and from registration. <sup>Dismissal or suspension of members</sup>

(2) Unless a judge of the Supreme Court otherwise orders, a surveyor who has been ordered by the council to be suspended or expelled from membership and from registration shall not, pending the disposition of any appeal made by him, act as a surveyor while so ordered to be suspended or expelled. <sup>Not to act as surveyor during appeal</sup>

(3) When an order has been made by the council suspending or expelling a surveyor from membership, the surveyor may appeal to a judge of the Supreme Court from the order. <sup>Appeal</sup>

(4) The appeal shall be by notice of motion served upon the president, vice-president or secretary-treasurer of the Association within fifteen days after service upon the surveyor of a copy of the decision appealed from, or within such further time as is allowed by a judge of the Supreme Court. <sup>Mode</sup>

(5) The judge may hear the appeal on the transcript of the evidence taken before the committee of the Association or upon such further evidence as he permits or he may rehear the case or remit it for rehearing on such evidence as he indicates. <sup>Hearing</sup>

(6) The judge may affirm, vary or rescind the order of the council or make such other order as he deems just. <sup>Judge's order</sup>

(7) By leave of a judge of the Court of Appeal given on application made within fifteen days after the decision complained of, an appeal lies to the Court of Appeal from any decision of a judge made under subsection 6. <sup>Appeal</sup>

Restoration  
of name

(8) The council may at any time direct the secretary-treasurer to restore to the register, upon such terms and conditions as are determined by the council, any entry or the name of any person removed therefrom. R.S.O. 1950, c. 196, s. 36.

Attendance  
of witnesses

**37.** On any inquiry concerning the election, dismissal, suspension or restoration of any member, a subpœna under the hand of the president or of the vice-president or of any two members of the council for the attendance of a witness before the council, has all the force of a subpœna issued by the Supreme Court, and any witness not attending in obedience thereto is liable to attachment in the Supreme Court. R.S.O. 1950, c. 196, s. 37.

Recovery  
of fees

**38.**—(1) All fees payable under this Act may be recovered as debts due the Association.

Application  
of fines

(2) All fines recovered under this Act shall immediately upon the recovery thereof be paid over by the convicting magistrate to the secretary-treasurer. R.S.O. 1950, c. 196, s. 38 (1, 2), *amended*.

Apportion-  
ment of  
fines

(3) Any person may be prosecutor or complainant under this Act, and the council may allot such portion of the fine as it deems expedient to the prosecutor. R.S.O. 1950, c. 196, s. 38 (3).

Accounts of  
Association

**39.** The secretary-treasurer shall enter in books to be kept for that purpose a true account of all moneys received and paid by him, and such books shall be audited and submitted to the council and to the Association when and so often as they require. R.S.O. 1950, c. 196, s. 39.

Service of  
notices

**40.**—(1) Except as otherwise provided in this Act, all notices and documents required by or for the purposes of this Act to be sent by mail, if sent by registered mail, shall be deemed to have been received at the time when they would be delivered in the ordinary course of mail.

What to be  
deemed  
proper  
address

(2) Such notices and documents, when sent to a person registered under this Act, shall be deemed to be properly addressed if addressed to him according to his address in the register of the Association. R.S.O. 1950, c. 196, s. 40.

## FORM 1

(Sections 10 and 12 (2) )

## VOTING PAPER

Association of Ontario Land Surveyors

Election 19.....

I, ....., of .....,  
 .....in.....  
 a member of the Association of Ontario Land Surveyors, do hereby  
 declare that:

(1) The signature hereto is in my proper handwriting.

(2) I vote for A. B., of....., as (president, vice-president,  
 secretary-treasurer, auditor or auditors, as the case may be).

(3) I vote for the following persons as members of the Council of the  
 Association: A. B., of....., and C. D., of.....

(4) I have signed no other voting paper at this election.

(5) This voting paper was signed on the day of the date thereof.

Witness my hand this.....day of....., 19.....

R.S.O. 1950, c. 196, Form 1.

## FORM 2

(Section 21 (1) )

## CERTIFICATE OF ADMISSION

This is to certify that A. B., of.....has duly passed  
 his examination before the board of examiners and has been found  
 qualified to fill the office and perform the duties of an Ontario Land  
 Surveyor, he having complied with all the requirements of the law in  
 that behalf. Wherefore the said A. B. is admitted to the said office and  
 is by law authorized to practise as an Ontario Land Surveyor.

In witness whereof we have signed this certificate at the City of Toronto  
 the.....day of....., 19.....

.....  
*Chairman*

.....  
*Secretary-treasurer*

R.S.O. 1950, c. 196, Form 2.



## CHAPTER 390

## The Surveys Act

## 1. In this Act,

Interpre-  
tation

- (a) "ascertainable point" means a point found or re-established in its original position on a line or boundary established during the original survey or on a line or boundary established during the survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act*; R.S.O. 1960,  
cc. 204, 348
- (b) "broken concession" means a concession any boundary of which is broken in whole or in part by a lake or river;
- (c) "broken lot" means an irregular lot or a regular lot whose area is diminished or increased by a natural or artificial feature shown on the original plan;
- (d) "competent authority" means any governmental authority in existence before or after the creation of the Province of Ontario under whose instructions Crown land in Ontario has been or may be surveyed, or the owner of a tract of land that was not included in a township at the time the tract was granted by the Crown under whose instructions the first survey of the boundaries or interior of the tract has been made;
- (e) "concession" means a tier of township lots;
- (f) "Department" means the Department of Lands and Forests;
- (g) "irregular lot" means a township lot whose boundaries according to the original plan do not conform within one degree to the bearings shown for the corresponding boundaries of the majority of the lots in the tier in which the lot occurs;
- (h) "land" includes land covered with water;
- (i) "last ascertainable side line" means a line in a broken concession established from the front of the concession on the course of a side line of a lot from the lot corner nearest the end of the part of the concession so broken;

R.S.O. 1960,  
cc. 204, 348

- (j) "lost corner" means a corner established during an original survey or during a survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act* where the original post no longer exists or never existed and which cannot be re-established from the field notes of either of such surveys or by evidence under oath;
- (k) "Minister" means the Minister of Lands and Forests;
- (l) "obliterated boundary" means a boundary established during an original survey or during a survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act* where the original posts or blazed trees no longer exist and which cannot be re-established from the field notes of either of such surveys or by evidence under oath;
- (m) "original plan" means a plan certified by the Surveyor General as being the original plan of an original survey;
- (n) "original post" means any object that defines a point and that was placed, planted or marked during the original survey or during a survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act*;
- (o) "original survey" means a survey made under competent authority;
- (p) "proof line" means a line surveyed across one or more concessions in the original survey of a single front township or of a double front township to govern the course of a side line of a lot;
- (q) "regular lot" means a township lot whose boundaries according to the original plan conform within one degree to the bearings shown for the corresponding boundaries of the majority of the lots in the tier in which the lot occurs;
- (r) "surveyor" means an Ontario land surveyor registered under *The Surveyors Act*;
- (s) "unbroken lot" means a regular lot whose area is not diminished or increased by a natural or artificial feature shown on the original plan;
- (t) "undisputed corner" means a corner of a parcel of land at which the original post exists, or a corner established under this Act or any predecessor of this Act. 1958, c. 107, s. 1.

R.S.O. 1960,  
c. 389

## PART I

## GENERAL

**2.** No survey of land for the purpose of defining, locating or describing any line, boundary or corner of a parcel of land is valid unless made by a surveyor or under the personal supervision of a surveyor. 1958, c. 107, s. 2.

**3.** All lines, boundaries and corners established under the authority of any Act heretofore or hereafter in force remain valid and all other things done under any such authority and in conformity therewith remain valid notwithstanding the repeal of such authority. 1958, c. 107, s. 3.

**4.—(1)** Every surveyor shall make and preserve exact and regular field notes of all his surveys and shall keep a proper record and index of all such field notes and shall exhibit or give copies of the same to any surveyor for a reasonable charge.

(2) Where a surveyor has died and no arrangements have been made within six months of his death to place his field notes, records and indices in the custody of a surveyor in active practice, the secretary-treasurer of the Association of Ontario Land Surveyors shall cause such field notes, records and indices to be delivered by the personal representative of the deceased surveyor to the Minister who shall hold them for the benefit of the estate for a period not exceeding five years, and upon the expiry of that period such field notes, records and indices become the property of the Crown and may be disposed of by the Minister in any manner he deems proper.

(3) So long as such field notes, records and indices are in the possession of the Minister, he shall exhibit or give copies of the same to any person for a reasonable charge. 1958, c. 107, s. 4.

**5.** A surveyor may at any time require a chainman or any other person in his employ to take an oath in writing to act justly and exactly according to the best of his judgment and ability and to render a true account of his work to the surveyor, which oath the surveyor is hereby authorized to administer. 1958, c. 107, s. 5.

**6.—(1)** A surveyor or a person in his employ while making a survey may,

- (a) at any time enter and pass over the land of any person; or
- (b) at any time suitable to the occupant of a building enter the building,

and do any act thereon or therein for any purpose of the survey, but the surveyor is liable for any damage occasioned thereby.

Offence  
for  
obstructing

(2) Every person who interferes with or obstructs a surveyor or a person in his employ in the exercise of any of the powers conferred by subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1958, c. 107, s. 6.

Examination  
under oath

7.—(1) A surveyor may examine under oath any person concerning a line, boundary, corner or post to assist him in ascertaining its true position.

Record of  
evidence

(2) The surveyor may cause the evidence so taken to be put in writing in the form of a statement under oath.

Subpoena

(3) Where the surveyor has reason to believe that a person has information concerning a line, boundary, corner or post that may assist him in ascertaining its true position or has a writing, plan or document concerning a line, boundary, corner or post and such person has refused to give the information or to produce the writing, plan or document to the surveyor while being examined under subsection 1, a judge of a county or district court, upon application of the surveyor, may order a subpoena to issue out of the court of which he is a judge commanding such person to appear before the surveyor at the time and place specified in the subpoena and to bring with him any writing, plan or document specified therein.

Service of  
subpoena

(4) The subpoena shall be served personally on the person named in it and he shall be tendered his reasonable expenses.

Penalty  
for failure  
to obey  
subpoena

(5) Every person who is served with a subpoena under this section and who has been tendered his reasonable expenses and who fails to appear before the surveyor in accordance with the subpoena or who fails to produce any writing, plan or document specified in the subpoena or to give such information as he has respecting the line, boundary, corner or post in question is guilty of contempt of the court out of which the subpoena issued.

Power to  
administer  
oaths

(6) A surveyor may administer oaths for any of the purposes of this section. 1958, c. 107, s. 7.

True and  
unalterable  
base lines  
and  
meridian  
lines

8. Every base line and meridian line surveyed under the instructions of the Minister before the 28th day of March, 1956, that are shown on the original plan thereof shall be deemed to have been made by competent authority and are true and unalterable and shall be deemed to be defined by the original posts or blazed trees in the survey thereof. 1958, c. 107, s. 8.



**9.** Notwithstanding section 57, every line, boundary and corner established by an original survey and shown on the original plan thereof is a true and unalterable line, boundary or corner, as the case may be, and shall be deemed to be defined by the original posts or blazed trees in the original survey thereof, whether or not the actual measurements between the original posts are the same as shown on the original plan and field notes or mentioned or expressed in any grant or other instrument, and every road allowance, highway, street, lane, walk and common shown on the original plan shall, unless otherwise shown thereon, be deemed to be a public road, highway, street, lane, walk and common, respectively. 1958, c. 107, s. 9.

True and unalterable lines, etc.

**10.** A surveyor in establishing or re-establishing a line, boundary or corner surveyed under competent authority and shown on the original plan thereof, other than a township subdivision plan, is governed by sections 53 and 54. 1958, c. 107, s. 10.

Methods governing plans, other than township subdivision plans

**11.—(1)** Where a lake or river is shown on an original plan of Crown lands and a parcel of land shown thereon is given an acreage covering the land area only, such parcel of land does not include any land covered by the water of the lake or river.

Where land covered by water not included

(2) Subsection 1 does not affect the rights of any person where such rights were determined by a court before the 8th day of July, 1913. 1958, c. 107, s. 11.

Certain rights not affected

**12.** Where the Crown has conveyed a parcel of land composed of two or more township lots or parts of lots in concessions adjoining each other by an instrument that contains a metes and bounds description of the parcel prepared from an original plan, the side lines or limits of such lots or parts of lots surveyed in accordance with this Act or any predecessor of this Act constitute the side lines or limits of the parcel. 1958, c. 107, s. 12.

Lands in township concessions included in same grant

## PART II

### FRONT AND REAR TOWNSHIPS

**13.—(1)** In this Part, "front and rear township" means a township where the usual practice in the original survey was to survey the township boundaries, the base lines, if any, and the side lines of the lots and to establish the corners of the lots.

Interpretation

(2) A surveyor in re-establishing a lost corner, an obliterated boundary or an obliterated side line of a lot in a front and rear township shall obtain the best evidence available respecting

Re-establishment of lost corners, etc.

the corner, boundary or side line, but if the corner, boundary or side line cannot be re-established in its original position from such evidence, he shall proceed as follows:

- (a) If the lost corner is a corner of the township, he shall report the circumstances to the Minister, who shall instruct him how to proceed.
- (b) If a part of the township boundary or a base line is obliterated, he shall re-establish the township boundary or the base line by joining the nearest ascertainable points thereof as intended in the original survey.
- (c) If a side line or part thereof is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey, and if an end of a side line is obliterated, he shall re-establish such end by measuring along the township boundary or base line in the manner in which such measurement was made as shown on the original plan and field notes.
- (d) If the lost corner is a corner of a lot, he shall determine the distance along the side line between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey. 1958, c. 107, s. 13.

Unsurveyed  
boundaries

**14.** A boundary of a lot shown on the original plan of a front and rear township that was not surveyed in the original survey is the straight line between the two corners of such lot. 1958, c. 107, s. 14.

Fronts of  
concessions

**15.** The front of a concession in a front and rear township is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered, but in the case of a township in which the concessions are not numbered or lettered, the front of a concession is the boundary of the concession that is nearest the boundary of the township or the base line along which the width of the first lot was measured. 1958, c. 107, s. 15.

Aliquot  
parts of  
lots

**16.—(1)** The aliquot part of a lot in a front and rear township is the aliquot part of the area of the lot, whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

(2) The boundaries of an aliquot part of a lot in a front and rear township, of which lot no aliquot part was surveyed before the 1st day of January, 1959, shall be surveyed on the astronomic course intended in the original survey for the side lines of such lot or on the astronomic course intended for the base line of the township, as the case may be. 1958, c. 107, s. 16.

### PART III

#### SINGLE FRONT TOWNSHIPS

**17.**—(1) In this Part, “single front township” means a township where the usual practice in the original survey was to survey the township boundaries, the proof lines and the base lines, if any, and the concession lines for the fronts of the concessions and to establish the lot corners on the front of each concession.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a single front township shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

- (a) If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
- (b) If the lost corner is a corner of a lot on a township boundary or on the front of a concession, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
- (c) If a part of a township boundary, base line or concession line is obliterated, he shall re-establish the same by joining the nearest ascertainable points thereof as intended in the original survey.
- (d) If a side line of a lot was surveyed as a proof line and part of the side line is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey.
- (e) If the front line of a concession is obliterated beyond the last ascertainable point in a concession broken by a lake or river at its end, he shall re-establish such

concession line on the same astronomic course as shown on the original plan and field notes from the last ascertainable point on the concession line.

- (f) If the lost corner is a corner of a lot that is beyond the last undisputed corner on the front of a concession broken by a lake or river at its end, he shall re-establish the corner by measuring along the front of the concession the distance shown on the original plan and field notes from the last undisputed corner. 1958, c. 107, s. 17.

Fronts of  
concessions

**18.** The front of a concession in a single front township is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered. 1958, c. 107, s. 18.

Concession  
line not  
surveyed or  
obliterated

**19.** Where in a single front township the whole of the front boundary of a concession was not surveyed in the original survey or is obliterated, a surveyor in establishing or re-establishing such front boundary in whole or in part shall establish or re-establish such boundary to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. 1958, c. 107, s. 19.

Concession  
not surveyed  
in original  
township,  
side lines  
established

**20.** Where the front of a concession in a single front township was not surveyed in the original survey, the side lines of the lots in such concession shall be surveyed from the corners of the lots on the front of the concession to the rear thereof to the depth of the concession, that is, to the proportionate depth intended in the original survey as shown on the original plan and field notes having due regard for any road allowance made in the original survey, and the straight line joining the ends of the lot lines so surveyed is the boundary of such concession. 1958, c. 107, s. 20.

Establish-  
ment of  
side lines

**21.** A surveyor in establishing in a concession in a single front township a side line of a lot that was not surveyed in the original survey shall proceed as follows:

- (a) If intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line of the concession at the end from which the lots are numbered, or, if such boundary line was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line at the other end of the concession, but where a proof line was surveyed in the original survey, he

shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

- (b) If not intended to be established on the same astronomic course as the boundary line at either end of the concession and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the end of the concession from which the lots are numbered as shown on the original plan and field notes, or, if such end was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the other end of the concession as shown on the original plan and field notes, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.
- (c) If the end boundaries of a concession were not surveyed in the original survey because they were wholly broken by a lake or river, he shall establish the side line at such angle with the front boundary of the concession as shown on the original plan and field notes, or, if parts of the front boundary of the concession have been surveyed on different courses, he shall establish the side line at such angle with the course of each of the parts as shown on the original plan and field notes, or, if such angle is not shown on the original plan and field notes, he shall establish the side line at such angle with the front boundary of the concession as the Minister directs.
- (d) If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and a proof line was surveyed in the original survey, he shall establish the side line on the same astronomic course as the proof line.
- (e) If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and two or more proof lines were surveyed in the original survey, he shall establish the side lines that are between the township boundary from which the lots are numbered and the second proof line from such boundary on the

same astronomic course as the first proof line from such boundary, and he shall establish the side lines that are between the second proof line and the third proof line from such boundary on the same astronomic course as the second proof line, and he shall establish the side lines that are between the third proof line and the fourth proof line from such boundary on the same astronomic course as the third proof line, and so on through the concession.

- (f) If the concession is wholly broken in front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots in the broken front concession, he shall establish the side lines in such broken front concession in accordance with this section from the corners of the lots on the front boundary of the concession in the rear thereof to the lake or river.
- (g) If the concession is partly broken in front at either end by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots broken thereby, he shall establish the side lines of such broken lots in accordance with this section from the points on the rear boundary of the concession determined by dividing proportionately as intended in the original survey the distance between the end of the concession and the intersection of the last ascertainable side line with the rear of the concession as shown on the original plan, but where such end of the concession is wholly bounded by a lake or river and no measurement was made in the original survey along the rear of the concession to the lake or river, he shall determine the points from which the side lines of such lots shall be drawn by measuring along the rear boundary the widths of the lots as intended in the original survey from the intersection of the last ascertainable side line.
- (h) If the concession is partly broken in front by a lake or river and the lake or river does not extend to either end of the concession and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots broken thereby, he shall establish the side lines of such broken lots in accordance with this section from points on the rear boundary of the concession determined by dividing proportionately as intended

in the original survey the distance between the intersections of the last ascertainable side lines on both sides of the lake or river with the rear boundary of the concession. 1958, c. 107, s. 21.

**22.**—(1) The aliquot part of a lot in a single front town-<sup>Aliquot parts described</sup>ship is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

(2) The boundaries of an aliquot part of a lot in a single<sup>Boundaries</sup> front township of which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the lot is broken on its front at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course of the front of the concession as shown on the original plan and field notes, or, if such course was not so shown, they shall be surveyed on the astronomic course intended for the front of the concession. 1958, c. 107, s. 22.

**23.**—(1) A surveyor in establishing the course of a town-<sup>Governing course for side lines</sup>ship boundary line or a proof line in a single front township for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the front and rear ends of the boundary line or proof line in each concession.

(2) A surveyor in establishing the course of the front of a<sup>Idem</sup> concession in a single front township for the purpose of measuring an angle with such front to establish a side line of a lot shall determine the course of the straight line joining the ends of such front, but where the front of the concession was surveyed on more than one course in the original survey, he shall determine the course of the straight line joining the ends of each course of such front. 1958, c. 107, s. 23.

## PART IV

### DOUBLE FRONT TOWNSHIPS

**24.**—(1) In this Part, “double front township” means a<sup>Interpretation</sup> township where the usual practice in the original survey was to survey the township boundaries, the proof lines and base

lines, if any, and the concession lines forming the front boundaries of the half lots and to establish the front corners of the half lots.

Re-establishment  
of lost  
corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a double front township shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

- (a) If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
- (b) If the lost corner is a corner of a lot on a township boundary or on a concession line, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey, but where there is an undisputed corner on the other side of the road allowance opposite the lost corner, he shall re-establish the lost corner from the position of the undisputed corner, and where the corner on the opposite side of the road allowance is also lost but the position of the original post on the centre line of the road allowance can be determined, such position shall be used in re-establishing the lost corner.
- (c) If a part of a township boundary, base line or concession line is obliterated, he shall re-establish the same by joining the nearest ascertainable points thereof as intended in the original survey.
- (d) If a side line of a lot was surveyed as a proof line and part of the side line is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey.
- (e) If the concession line forming the front boundary of the half lots in a concession is obliterated beyond the last ascertainable point in a concession broken by a lake or river at its end, he shall re-establish such concession line on the same astronomic course as shown on the original plan and field notes from the last ascertainable point on the concession line.



- (f) If the lost corner is a corner of a lot that is beyond the last undisputed corner on a concession line forming the front boundary of the half lots in a concession broken by a lake or river at its end, he shall re-establish the corner by measuring along such concession line the distance shown on the original plan and field notes from the last undisputed corner. 1958, c. 107, s. 24.

**25.** The front boundary of a half lot in a double front township is the boundary of the half lot that abuts the road allowance between two concessions made in the original survey, or, where a concession is broken by a lake or river, the front boundary of a half lot is the original shore of the lake or river opposite the prolongation of such road allowance across the lake or river. 1958, c. 107, s. 25.

**26.** Where in a double front township the whole of the concession line forming the front boundary of the half lots was not surveyed in the original survey or is obliterated, a surveyor in establishing or re-establishing such concession line in whole or in part shall establish or re-establish such concession line to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. 1958, c. 107, s. 26.

**27.** A surveyor in establishing the rear boundaries of half lots in a concession in a double front township shall proceed as follows without reference to the description contained in any grant or other instrument:

- (a) If the concession is unbroken on both fronts by a lake or river, he shall join by straight lines the midway points of the side lines of the lots and their production through the concession.
- (b) If the concession is broken on either or both fronts by a lake or river but the fronts of the concession are not wholly broken at either or both ends, he shall join by a straight line the midway points of the last ascertainable side line and its production through the concession at each end of the broken front.
- (c) If the concession is wholly broken on both fronts at either end of the concession by a lake or river but not broken on both fronts throughout the entire concession, he shall establish the midway point of the last ascertainable side line and its production through the concession and from this point he shall

establish the rear boundary of the half lots on both fronts of the concession on the astronomic course intended in the original survey.

- (d) If the concession is broken at its end on one of the fronts of the half lots by a lake or river but not so broken on the rear boundaries of such half lots, he shall establish the midway point of the last ascertainable side line of the half lots so broken and its production through the concession and from such midway point join a straight line to a point on the township boundary determined by measuring along that boundary the distance intended in the original survey from the unbroken front of the concession. 1958, c. 107, s. 27.

Establish-  
ment of  
side lines

**28.** A surveyor in establishing in a concession in a double front township a side line of a half lot that was not surveyed in the original survey shall proceed as follows:

- (a) If intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line of the concession at the end from which the lots are numbered, or, if such boundary line was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line at the other end of the concession, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.
- (b) If not intended to be established on the same astronomic course as the boundary line at either end of the concession and if intended in the original survey, he shall establish the side line at the angle with the boundary line at that end of the concession from which the lots are numbered as shown on the original plan and field notes, or, if such end was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the other end of the concession as shown on the original plan and field notes, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the

end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

- (c) If the end boundaries of a concession were not surveyed in the original survey because they were wholly broken by a lake or river, he shall establish the side line at such angle with the concession line as shown on the original plan and field notes, or, if parts of the concession line have been surveyed on different courses, he shall establish the side line at such angle with the course of each of the parts as shown on the original plan and field notes, or, if such angle is not shown on the original plan and field notes, he shall establish the side line at such angle with the concession line as the Minister directs.
- (d) If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and a proof line was surveyed in the original survey, he shall establish the side line on the same astronomic course as the proof line.
- (e) If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and two or more proof lines were surveyed in the original survey, he shall establish the side lines that are between the township boundary from which the lots are numbered and the second proof line from such boundary on the same astronomic course as the first proof line from such boundary, and he shall establish the side lines that are between the second proof line and the third proof line from such boundary on the same astronomic course as the second proof line, and he shall establish the side lines that are between the third proof line and the fourth proof line from such boundary on the same astronomic course as the third proof line, and so on through the concession.
- (f) If the concession is wholly broken on one front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots, he shall establish the side lines of the broken half lots according to this section from the rear corners of the half lots on the unbroken front of the concession.

- (g) If the concession is wholly broken on both fronts at either end by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundaries of the half lots determined by measuring along the rear boundaries of the half lots the widths of the half lots as intended in the original survey from the intersections of the last ascertainable side lines of the half lots with the rear boundaries of the half lots.
- (h) If the concession is partly broken on one front by a lake or river and the lake or river does not extend to either end of the concession and no posts were planted in the original survey on the banks of the lake or river to regulate the width in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundaries of the half lots determined by dividing proportionately as intended in the original survey the distance between the intersections of the last ascertainable side lines of the half lots on both sides of the lake or river with the rear boundaries of the half lots.
- (i) If the concession is partly broken on either front at either end but not broken at the end of the rear boundary of the half lots by a lake or river and no posts were planted in the original survey on the banks of such lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundary of the half lots in the unbroken front determined by dividing proportionately as intended in the original survey the distance between the end of the concession and the last ascertainable side line of the half lot on the front of the concession so broken.
- (j) If the concession is partly broken on either front at either end by a lake or river and also broken at the end of the rear boundary of the half lots and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of the broken half lots according to this section from points on the rear boundary of the half lots in the unbroken front determined by measuring

along such rear boundary the widths of the broken half lots as intended in the original survey from the intersection of the last ascertainable side line of the half lot on the front of the concession so broken. 1958, c. 107, s. 28.

**29.**—(1) The aliquot part of a half lot in a double front township is the aliquot part of the area of the half lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Aliquot parts described</sup>

(2) The boundaries of an aliquot part of a half lot in a double front township of which half lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the half lot, as the case may be, but where in such latter case the front of the half lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the half lot, and where the rear boundary of the half lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course of the half lot as shown on the original plan and field notes, or, if such course was not so shown, they shall be surveyed on the astronomic course intended in the original survey for the front of the half lot. 1958, c. 107, s. 29. <sup>Boundaries</sup>

**30.**—(1) A surveyor in establishing the course of a township boundary line or a proof line in a double front township for the purpose of surveying a side line of a half lot shall determine the course of the straight line joining the front and rear ends of such boundary line or proof line in each concession. <sup>Governing course for side lines</sup>

(2) A surveyor in establishing the course of the front of a concession in a double front township for the purpose of measuring an angle with such front to establish a side line of a half lot shall determine the course of the straight line joining the ends of such front, but where the front of a concession was surveyed on more than one course in the original survey, he shall determine the course of the straight line joining the ends of each course of such front. 1958, c. 107, s. 30. <sup>Idem</sup>

## PART V

### SECTIONAL TOWNSHIPS WITH DOUBLE FRONTS

**31.**—(1) In this Part, "sectional township with double fronts" means a township divided into sections and lots where the usual practice in the original survey was to survey <sup>Interpretation</sup>

the township boundaries, concession lines and side lines of sections defining section boundaries and to establish the front corners of the lots and the section corners.

Re-establishment  
of lost  
corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a sectional township with double fronts shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

- (a) If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
- (b) If the lost corner is a corner of a section on a township boundary, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
- (c) If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line and the adjacent corners of the sections are lost, he shall re-establish the corner by intersecting a straight line joining the nearest ascertainable points on the concession line with a straight line joining the nearest ascertainable points on the side line of the section on opposite sides of the concession line, but where such ascertainable points on the side line of the sections are more than twenty chains apart, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.
- (d) If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original

- plan and field notes as a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes not as a straight line and the adjacent corners of the sections are lost, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.
- (e) If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as not on a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line and the adjacent corners of the sections are lost, he shall determine the distance between the two nearest undisputed corners on the side lines of the sections, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the side line of the section on opposite sides of the concession line.
- (f) If the lost corner is the corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as not in a straight line, and the side lines between such sections and adjacent sections on the opposite sides of the concession line are shown on the original plan and field notes as not in a straight line and the section corners of the adjacent sections on the concession line are lost, he shall report the circumstances to the Minister who shall instruct him how to proceed.
- (g) If the lost corner is a corner of a lot in a section on a front of a concession, he shall determine the distance between the two nearest undisputed corners in the section, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original sur-

vey having due regard for any road allowance made in the original survey, but where there is an undisputed corner on the other side of the road allowance, opposite the lost corner, he shall re-establish the lost corner from the position of the undisputed corner, and where the corner on the opposite side of the road allowance is also lost but the position of the original post on the centre line of the road allowance can be determined, such position shall be used in re-establishing the lost corner.

- (h) If a part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
- (i) If part of a concession line or side line of a section surveyed in the original survey is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
- (j) If a concession line is obliterated beyond the last side line of a section in a concession broken by a lake or river at its end, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point on the concession line in that section.
- (k) If in a concession wholly or partly broken by a lake or river on its front a side line of a section is obliterated and it was not surveyed across the lake or river, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point thereof.

Application

(3) Clauses *c*, *d*, *e* and *f* of subsection 2 do not apply to any corner of a section re-established before the 24th day of March, 1911. 1958, c. 107, s. 31.

Fronts of  
concessions

**32.** The front of a concession in a sectional township with double fronts is the boundary of the concession that abuts the road allowance between two concessions shown on the original plan or, where a concession is broken by a lake or river, that is nearest the prolongation of such road allowance across the lake or river. 1958, c. 107, s. 32.

Establish-  
ment of rear  
boundaries  
of  
concessions

**33.** A surveyor in establishing the rear boundary of a concession in a sectional township with double fronts shall proceed as follows:

- (a) If the two concessions in a section are unbroken by a lake or river on their fronts, he shall, if intended



in the original survey, join by straight lines the midway points of the side lines of the lots and their productions through the section.

- (b) If the two concessions in a section are broken by a lake or river on either or both of their fronts but the fronts of the two concessions are not wholly broken at either or both ends of the section, he shall, if intended in the original survey, join by a straight line the midway points between the fronts of the two concessions on the last ascertainable side line in the section at each end of the broken front.
- (c) If one of the concessions in a section is broken by a lake or river on its front at either or both ends of the section but not broken through the entire section, he shall join by a straight line a point on the broken side line of the section determined by measuring the distance shown on the original plan and field notes from the unbroken front and the midway point between the fronts of the two concessions on the last ascertainable side line in the section at the end of the broken front.
- (d) If one of the concessions in a section is wholly broken by a lake or river on its front, he shall measure the distance shown on the original plan and field notes along the side lines of the lots from the front of the unbroken concession.
- (e) If one of the concessions in a section is partly or wholly broken by a lake or river on its front and at either or both ends of the section and the other concession in the section is partly or wholly broken by a lake or river at either or both ends of the section and partly broken on its front, he shall establish the rear boundary of the concessions so broken on their fronts on the astronomic course intended in the original survey from a point determined by measuring the distance shown on the original plan and field notes from the unbroken part of the front of such concession along the last ascertainable side line in that concession at the end of the broken front.
- (f) If both concessions in a section are wholly broken by a lake or river on their fronts and no posts were planted in the original survey to establish the rear boundaries of such concessions, he shall establish the rear boundary of such concessions on the astronomic course intended in the original survey from a point

established on the limit of the section nearest the end from which the lots are numbered midway between the section corners. 1958, c. 107, s. 33.

Establish-  
ment of  
side lines

**34.** A surveyor in establishing in a concession in a sectional township with double fronts a side line of a lot that was not surveyed in the original survey shall proceed as follows:

- (a) Where any such township was surveyed under the 1,000-acre or 1,800-acre sectional system and if intended in the original survey, he shall establish the side line on the astronomic course shown on the original plan and field notes for the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, or, if intended in the original survey, he shall establish the side line on the astronomic course shown on the original plan and field notes for the side at the other end of the section in which the lot is located.
- (b) Where any such township was surveyed under any sectional system other than the 1,000-acre or 1,800-acre sectional system and if it was intended in the original survey, he shall establish the side line on the astronomic course of the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, or, if intended in the original survey, he shall establish the side line on the astronomic course of the side line of the section in which the lot is located at the other end of the section in which the lot is located, but where the side line of the section from which the lots are numbered is broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish the side line on the astronomic course of the side line of the section at the other end of the section, and where both side lines of the section are broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish the side line on the astronomic course shown on the original plan and field notes.
- (c) If the fronts of either or both concessions in a section are partly or wholly broken by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes show that a survey line was run in the original survey

- across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines of such broken lots in accordance with this section from points on the section limit fronting each concession determined by dividing proportionately as intended in the original survey the distance between the two nearest undisputed lot corners in the section, one being on either side of the side line of the broken lot to be established.
- (d) If one of the concessions in a section is wholly broken by a lake or river on its front and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines in such a concession in accordance with this section from the rear corners of the lots in the concession to the rear thereof.
- (e) If both concessions in a section are wholly broken by a lake or river on their fronts and wholly broken at one end of the section and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines in such concessions in accordance with this section from points on the rear concession line determined by measuring along the rear concession line the distance intended in the original survey from the section limit at the end of the section that is not wholly broken.
- (f) If one of the concessions in a section is broken at either end but not wholly broken on its front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines of any such broken lot in accordance with this section from the rear corners of the lots of the concession to the rear.

- (g) If the end of a concession is broken on its front and rear by a lake or river and no posts were planted on the banks of the lake or river to regulate the widths of the lots, he shall establish the side lines of any such lot in accordance with this section from points determined by measuring the distance intended in the original survey from the nearest undisputed corner along the astronomic course intended in the original survey for the front of the concession. 1958, c. 107, s. 34.

Aliquot  
parts

**35.**—(1) Where the whole or a part of any lot in a sectional township with double fronts was patented before the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) Where the whole or a part of a broken lot in a sectional township with double fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(3) Where the whole or a part of an unbroken lot in a sectional township with double fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the frontage or depth of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Boundaries  
of aliquot  
parts

(4) The boundaries of an aliquot part of a lot to which subsection 1 or 2 applies and in which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the front of the lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course intended for the front of the concession shown on the original plan and field notes, or, if such course was not so shown, such boundaries shall be surveyed on the astronomic course intended in the original survey for the front of the concession.

(5) The boundaries of an aliquot part of a lot to which subsection 3 applies shall be surveyed on the astronomic course of a side line not surveyed in the original survey from points on the front of the lot determined by dividing the measurement between the lot corners equally or by joining by straight lines points on the side lines determined by dividing the measurement between the front and rear corners of the lot equally without regard to the manner in which the aliquot part is described in any grant or other instrument. 1958, c. 107, s. 35.

**36.** A surveyor in establishing the course of a boundary line of a section in a sectional township with double fronts for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the section corners. 1958, c. 107, s. 36.

## PART VI

### SECTIONAL TOWNSHIPS WITH SINGLE FRONTS

**37.—(1)** In this Part, "sectional township with single fronts" means a township divided into sections and lots where the usual practice in the original survey was to survey the township boundaries, concession lines and side lines of the sections and to establish the front corners of the lots and the section corners.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a sectional township with single fronts shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

- (a) If the lost corner is a corner of a township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
- (b) If the lost corner is a corner of a section on a township boundary, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey.
- (c) If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjoining sections

on the opposite side of the concession line are shown on the original plan and field notes as a straight line, he shall re-establish the corner by intersecting a straight line joining the nearest ascertainable points on the concession line with a straight line joining the nearest ascertainable points on the side line of the section on opposite sides of the concession line, but where such ascertainable points on the side line of the sections are more than twenty chains apart, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.

- (d) If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession are shown on the original plan and field notes not as a straight line, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.
- (e) If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes not as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line, he shall determine the distance between the two nearest undisputed corners on the side lines of the sections, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the side line of the section.
- (f) If the lost corner is the corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original

plan and field notes not as a straight line and the side lines between such sections and adjoining sections on the opposite sides of the concession line are shown on the original plan and field notes not as a straight line, he shall report the circumstances to the Minister who shall instruct him how to proceed.

- (g) If the lost corner is a corner of a lot in a section on the front of a concession, he shall determine the distance between the two nearest undisputed corners in the section, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey.
- (h) If a part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof in the manner intended in the original survey.
- (i) If part of a concession line or side line of a section surveyed in the original survey is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
- (j) If a concession line is obliterated beyond the last side line of a section in a concession broken by a lake or river at its end, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point on the concession line in that section.
- (k) If in a concession wholly or partly broken by a lake or river on its front a side line of a section is obliterated and it was not surveyed across the lake or river, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point thereof.

(3) Clauses *c, d, e* and *f* of subsection 2 do not apply to any Application corner of a section re-established before the 24th day of March, 1911. 1958, c. 107, s. 37.

**38.** The front of a concession in a sectional township with single fronts is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered. 1958, c. 107, s. 38.

**39.** A surveyor in establishing in a concession in a sectional township with single fronts a side line of a lot that was not surveyed in the original survey shall proceed as follows:

- (a) If intended in the original survey, he shall establish the side line on the astronomic course for the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, but where the side line of such section is broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish such side line on the astronomic course of the side line of the section at the other end of such section, but where both side lines of the section are broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish such side line on the astronomic course shown on the original plan and field notes.
- (b) If the front of a concession in a section is partly or wholly broken by a lake or river and no post was planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes show that a survey line was run across the lake or river to regulate the widths in front of the broken lots, he shall establish the side line of such broken lots in accordance with this section from a point on the section limit fronting the concession determined by dividing proportionately as intended in the original survey the distance between the corners of the section.
- (c) If the front of a concession in a section is wholly broken by a lake or river and no post was planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side line of such broken lots in accordance with this section from the front corner of the lots in the concession to the rear thereof.
- (d) If the end of a concession is broken on its front and rear by a lake or river and no posts were planted on the banks of the lake or river to regulate the widths of the lots and the original field notes do not show that a survey line was run in the original survey to regulate the widths in front of the broken lots, he shall establish the side lines of any such lot in accordance with this section from points determined by measuring the distance intended in the original survey



from the nearest undisputed corner along the astronomic course intended in the original survey for the front of the concession. 1958, c. 107, s. 39.

**40.—(1)** Where the whole or a part of any lot in a sectional township with single fronts was patented before the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Aliquot parts</sup>

(2) Where the whole or a part of a broken lot in a sectional township with single fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Idem</sup>

(3) Where the whole or a part of an unbroken lot in a sectional township with single fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the frontage or depth of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. <sup>Idem</sup>

(4) The boundaries of an aliquot part of a lot to which subsection 1 or 2 applies and in which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the front of the lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course intended in the original survey for the front of the concession shown on the original plan and field notes, or, if such course was not so shown, such boundaries shall be surveyed on the astronomic course intended for the front of the concession. <sup>Boundaries of aliquot parts</sup>

(5) The boundaries of an aliquot part of a lot to which subsection 3 applies shall be surveyed on the astronomic course of a side line not surveyed in the original survey from points on the front of the lot determined by dividing the measurement between the lot corners equally or by joining by straight lines points on the side lines determined by divid-

ing the measurement between the front and rear corners of the lot equally without regard to the manner in which the aliquot part is described in any grant or other instrument. 1958, c. 107, s. 40.

Governing  
course for  
side lines

**41.** A surveyor in establishing the course of a boundary line of a section in a sectional township with single fronts for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the section corners. 1958, c. 107, s. 41.

## PART VII

### SECTIONAL TOWNSHIPS WITH SECTIONS AND QUARTER SECTIONS

Interpre-  
tation

**42.** In this Part, "sectional township with sections and quarter sections" means,

- (a) a township divided into sections and quarter sections without road allowances between sections where the usual practice in the original survey was to survey the township boundaries and section lines and to establish the section corners and quarter section corners; or
- (b) a township divided into sections and quarter sections with road allowances between sections where the usual practice in the original survey was to survey the township boundaries and the section lines on the west and south sides of the road allowances and to establish the section corners and the quarter section corners on the surveyed lines. 1958, c. 107, s. 42.

Widths of  
certain road  
allowances

**43.—(1)** Every road allowance between sections of sectional townships surveyed under instructions of the Department of Interior of Canada is one chain wide and every such road allowance lies north and east of the south and west sides of the road allowance as surveyed in the original survey.

Land  
detached  
from  
original  
road  
allowances

(2) The strips of land formerly forming parts of the original road allowances mentioned in subsection 1 are detached therefrom and attached to and form part of the quarter section immediately adjoining the strips of land on the east and north thereof.

Original  
section  
and quarter  
section  
posts to  
govern

(3) The section and quarter section corners established in the original survey of the townships mentioned in subsection 1 continue to be the governing points for the purpose of re-establishing a lost corner or obliterated boundary of a

section or quarter section and establishing section and quarter section corners not established in the original survey. 1958, c. 107, s. 43.

**44.—(1)** A surveyor in re-establishing a lost corner or obliterated boundary surveyed in the original survey in a sectional township with sections and quarter sections with or without road allowances shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

Re-establishment of lost corners and obliterated boundaries

- (a) If the lost corner is a corner of a township, he shall report the circumstances to the Minister who shall instruct him how to proceed.
- (b) If the lost corner is a corner of a section or quarter section on or along a township boundary, he shall determine the distance between the nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
- (c) If the lost corner is a corner of a section on a section boundary in the interior of a township, he shall re-establish the corner by intersecting the straight lines joining the nearest ascertainable points on the adjoining intersecting section boundaries.
- (d) If the lost corner is a corner of a quarter section on a section boundary in the interior of a township, he shall re-establish the corner by joining the nearest ascertainable points on the section boundary and shall determine the distance between the section corners of the section in which the quarter section corner is lost and divide the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.
- (e) If part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.
- (f) If a part of a section boundary in the interior of a township is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

Establish-  
ment of  
side line  
of section

(2) A surveyor in establishing an original section line on the north or east side of a road allowance in a township defined in clause *b* of section 42 shall measure the width of the road allowance shown on the original plan and field notes from the section line on the south or west side, as the case may be, of the road allowance. 1958, c. 107, s. 44.

Establish-  
ment of  
section and  
quarter  
section  
corners

**45.** A surveyor in establishing a corner of a section or quarter section shown on the original plan and field notes on a section line not surveyed in the original survey in a township defined in clause *b* of section 42 shall proceed as follows:

- (a) If the corner is a corner of a section, he shall measure the widths of the road allowances shown on the original plan and field notes from the two section corners of the adjacent sections on the opposite sides of the road allowances.
- (b) If the corner is a corner of a quarter section, he shall measure the width of the road allowance as shown on the original plan and field notes from the opposite quarter section corner on the other side of the road allowance and join a straight line between that quarter section corner and the opposite quarter section corner on the section line at the other side of the section. 1958, c. 107, s. 45.

Establish-  
ment of  
interior  
boundaries  
of half  
sections  
and quarter  
sections

**46.** The interior boundaries of half sections or quarter sections shall be surveyed by connecting the opposite quarter section corners on the boundaries of the section by straight lines. 1958, c. 107, s. 46.

Aliquot  
parts  
described

**47.—**(1) The aliquot part of a quarter section in a sectional township with sections and quarter sections is the aliquot part of the frontage or the depth between the quarter section corners whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) The aliquot part of a half section in a sectional township with sections and quarter sections is the aliquot part of the frontage or depth between the quarter section corners of the quarter sections forming the half section whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Establish-  
ment of  
boundaries  
of aliquot  
parts

(3) The interior boundaries of an aliquot part of a quarter section shall be surveyed by connecting by straight lines the points on the boundaries of the quarter section determined in accordance with this section. 1958, c. 107, s. 47.

## PART VIII

## MUNICIPAL AND CROWN RE-SURVEYS

**48.—(1)** The council of a municipality or the board of trustees of an improvement district, upon its own motion, may, or upon the petition of one-half of the landowners affected shall, pass a by-law authorizing an application to the Minister to cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner that is in the municipality and that has been surveyed under competent authority or under *The Land Titles Act* or *The Registry Act*. Application for survey in a municipality R.S.O. 1960, c. 204, 348

(2) The Minister shall appoint and instruct a surveyor to make the survey for which an application has been made under subsection 1 and when the survey has been made and the plan and field notes have been examined by the Minister, the Minister shall cause a notice to be published once in each week for four consecutive weeks in a newspaper having general circulation in the municipality in which the survey has been made of a hearing to be held by him at a stated place on a day not fewer than ten days after the last publication of the notice at which hearing the survey will be considered and any interested persons will be heard, and upon the evidence submitted the Minister may direct such amendments to be made as he deems necessary and may confirm the position of the disputed or lost line, boundary or corner fixed by the survey, and any line, boundary or corner so confirmed is an unalterable line, boundary or corner and is final and conclusive and shall not be questioned in any court. Confirmation of survey

(3) Subject to section 50, the cost of a survey under subsection 2 shall be paid to the surveyor making the survey by the municipality making the application therefor upon notice in writing by the Minister to the municipality that the survey has been made, and the municipality may levy all or any part of such cost on the landowners affected by the survey in proportion to the benefit received as determined by by-law of the municipality and collect the same as taxes. Cost of survey

(4) A copy of the plan and field notes of a survey confirmed under subsection 2 shall be registered by the Minister with the proper master of titles or registrar of deeds and another copy with the clerk of the municipality that made the application under subsection 1. 1958, c. 107, s. 48. Filing of plans and field notes

**49.—(1)** The Minister upon the application of an owner or owners of land that is situate in territory without municipal organization and that has been surveyed under competent Application for survey in unorganized territory

R.S.O. 1960,  
cc. 204, 348

authority or under *The Land Titles Act* or *The Registry Act* may cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner.

Cost of  
survey

(2) Subject to section 50, the cost of a survey under subsection 1 shall be paid by the owner or owners making application therefor upon notice by the Minister that the survey has been made.

Confirmation  
of survey

(3) Subsections 2 and 4 of section 48 apply *mutatis mutandis* to a survey made under this section. 1958, c. 107, s. 49.

Cost of  
survey  
may be  
paid by  
Province

**50.** The Minister may pay all or any part of the cost of a survey under section 48 or 49 out of the moneys that are appropriated by the Legislature for ground surveys. 1958, c. 107, s. 50.

Crown  
re-survey

**51.**—(1) The Minister may cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner that was surveyed under competent authority, and in any such case the Minister may direct that subsections 2 and 4 of sections 48 apply *mutatis mutandis*.

Confirmation  
of Crown  
re-surveys

(2) Where a survey similar to a survey under subsection 1 was made under the instructions of the Minister before the 1st day of June, 1947, the Minister may, upon compliance with the requirements as to publication of notice and the holding of a hearing set forth in subsection 2 of section 48, confirm the survey and such confirmation has the like force and effect as a confirmation under the said subsection. 1958, c. 107, s. 51.

## PART IX

### PLANS OF SUBDIVISION

Interpre-  
tation

**52.** In this Part, "plan of subdivision" means a plan of subdivision that is registered under *The Land Titles Act* or under *The Registry Act*. 1958, c. 107, s. 52.

True and  
unalterable  
line,  
boundary  
and  
corner

**53.** Every line, boundary and corner established by survey and shown on a plan of subdivision is a true and unalterable line, boundary or corner, as the case may be, with respect to such plan and shall be deemed to be defined by the original posts or blazed trees in the first survey thereof, whether or not the actual measurements between the original posts are the same as shown on the plan of subdivision or expressed in any grant or other instrument. 1958, c. 107, s. 53.

**54.** A surveyor in re-establishing a line, boundary or corner shown on a plan of subdivision shall obtain the best evidence available respecting the line, boundary or corner, but if the line, boundary or corner cannot be re-established in its original position from such evidence, he shall proceed as follows:

Re-establishment  
of lost  
corners,  
etc.

- (a) If a part of a line or boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof in the manner shown on the plan of subdivision.
- (b) If a corner on a line or boundary is lost, he shall re-establish it by the method that accords with the intent of the survey as shown on the plan of subdivision and, if it is consistent with the intent of the survey as shown on the plan of subdivision, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as shown on the plan of subdivision having due regard for any road allowance, highway, street, lane, walk or common shown on the plan of subdivision. 1958, c. 107, s. 54.

**55.—(1)** Every exterior angle of a parcel of land being subdivided and one angle of each street intersection being laid out shall be defined in the survey thereof by,

Survey  
posts,  
monuments,  
etc.

- (a) an iron bar one inch square and four feet long driven into the ground so that the top is flush with the ground level, which bar shall be known as a standard iron bar and may be designated by the initials S.I.B.; or
- (b) a stone or reinforced concrete monument five inches square at the top, eight inches square at the base and not less than three feet six inches in length planted so that the top is flush with the ground level; or
- (c) in the case of exposed solid rock, an iron bolt one inch square and three inches long cemented or leaded into the rock so that the top is flush with the rock level,

but where the nature of the location is such that it is impracticable to comply fully with this subsection, the angle shall be defined in a manner that represents substantial compliance therewith.

Idem

(2) The position, type and form of every bar, monument and bolt driven, planted or set in accordance with subsection 1 shall be shown on the plan of subdivision.

Bearings

(3) Every bearing shown on a plan of subdivision shall be referred to one reference line designated on the plan and the course of such reference line shall be the true bearing and shall be determined by astronomic observation or other satisfactory method. 1958, c. 107, s. 55.

Public  
roads,  
etc.  
R.S.O. 1960,  
cc. 204, 348

**56.**—(1) Subject to *The Land Titles Act* or *The Registry Act* as to the amendment or alteration of plans, every road allowance, highway, street, lane, walk and common shown on a plan of subdivision shall be deemed to be a public road, highway, street, lane, walk and common, respectively.

Road  
allowance  
closed

(2) Where under subsection 1 a road allowance, highway, street, lane or walk in a municipality is a public highway but the municipality has not assumed it for public use and it or any part of it is closed by an alteration of the plan under *The Land Titles Act*, *The Registry Act* or other provisions in that behalf, it or the part of it so closed belongs to the owners of the land abutting thereon.

Different  
owners

(3) Where several parcels of land having different owners abut on the road allowance, highway, street, lane or walk or the part thereof so closed, the owner of each parcel is entitled to the part so closed on which his land abuts to the middle line of the road allowance, highway, street, lane or walk or the part thereof so closed.

Where  
public way  
abuts

(4) Where a part of the road allowance, highway, street, lane or walk so closed is abutted on one side by another road allowance, highway, street, lane or walk or by a stream, river or other body of water over which the public have rights of navigation or of floating timber, the whole width of such part belongs to the owners whose lands abut thereon opposite the road allowance, highway, street, lane, walk, stream, river or other body of water.

Side  
lines

(5) The division line between two parcels of land having different owners produced to the middle line of the road allowance, highway, street, lane or walk so closed or across the same in cases coming within subsection 4 is the division line between the parts so closed to which the owners of the parcels are respectively entitled.

Several  
owners

(6) Where a parcel of land abutting a road allowance, highway, street, lane or walk so closed is owned by more than one person, each such owner is entitled to the like estate or interest in the part so closed as he has in the parcel abutting thereon.



(7) Where a parcel of land abutting a road allowance, highway, street, lane or walk so closed is encumbered, the encumbrance extends to and includes the part thereof to which the owner of such parcel becomes entitled under this section.

(8) Where a road allowance, highway, street, lane or walk is so closed, the municipality in which the same was vested shall execute a conveyance to each owner of the part that belongs to him under this section, and the municipality shall register the conveyance in the proper land titles or registry office and shall bear the cost of preparing and registering it. 1958, c. 107, s. 56.

## PART X

### SURVEYS OF LAND UNDER THE HIGHWAY IMPROVEMENT ACT

**57.** All posts and monuments heretofore or hereafter marked, placed or planted for the purpose of designating and defining the boundaries of any parcel of land vested in the Crown and under the jurisdiction and control of the Department of Highways under *The Highway Improvement Act* or a predecessor thereof are true and unalterable and fix the boundaries of such parcel, whether or not the actual measurements between the posts or monuments are the same as shown on the plan thereof or mentioned or expressed in any grant or other instrument in respect of such parcel and whether or not such parcel remains vested in the Crown. 1958, c. 107, s. 57.

## PART XI

### MISCELLANEOUS

**58.** The aliquot part of a parcel of land that is not an aliquot part of a township lot is the aliquot part of the area of the parcel of land whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. 1958, c. 107, s. 58.

**59.** The Minister may assign any of the powers or duties conferred or imposed upon him by this Act to the Surveyor General. 1958, c. 107, s. 59.

**60.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the methods of performing surveys and for the purpose of illustrating any method by words and sketches, or either of them;

- (b) prescribing the kind and form of monuments used to identify points in surveys and prescribing how and where they are to be used and how they are to be designated on plans of survey;
  - (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 118, s. 1.
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## CHAPTER 391

**The Survivorship Act**

1.—(1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, such deaths shall, subject to subsections 2 and 3, for all purposes affecting the title to property, be presumed to have occurred in the order of seniority, and accordingly the younger shall be deemed to have survived the older. R.S.O. 1950, c. 382, s. 1 (1). <sup>Order of death presumed</sup>

(2) This section shall be read and construed subject to sections 189 and 246 of *The Insurance Act* and section 36 of *The Wills Act*. R.S.O. 1950, c. 382, s. 1 (2), *amended*. <sup>Exceptions R.S.O. 1960, cc. 190, 433</sup>

(3) Where a testator and a person who, if he had survived the testator, would have been a beneficiary of property under the will, die at the same time or in circumstances rendering it uncertain which of them survived the other, and the will contains provisions for the disposition of the property in case that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, then for the purpose of that disposition the will takes effect as if that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, as the case may be. R.S.O. 1950, c. 382, s. 1 (3). <sup>Idem</sup>

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## CHAPTER 392

**The Teachers' Superannuation Act****1. In this Act,**Interpre-  
tation

- (a) "board" means a board of public school trustees, board of separate school trustees, board of trustees of a continuation school, high school board, collegiate institute board or board of education;
- (b) "Commission" means the Teachers' Superannuation Commission;
- (c) "Department" means the Department of Education;
- (d) "employed" means engaged under contract for any period,
  - (i) as a teacher in an elementary school or a secondary school,
  - (ii) as a teacher in a school or class designated by the regulations,
  - (iii) as a teacher in a school outside Ontario under a teachers' exchange system authorized by the Minister,
  - (iv) as a teacher in a school or class that is maintained by the Government of Canada or the Government of Ontario, or both, for the instruction of members or former members of Her Majesty's Canadian forces and that is designated by the regulations, where the teacher has elected to come under this Act,
  - (v) as a teacher in a teachers' college, a provincial technical or polytechnical institute, a railway-car school, the Ontario College of Education, the University of Toronto Schools, the Ontario College of Art, the Ontario School for the Deaf, the Ontario School for the Blind, the Province of Ontario Correspondence Courses, the Royal Ontario Museum, or The Lakehead College of Arts, Science and Technology,
  - (vi) as an inspector or in a supervisory capacity by a board,

- (vii) as an officer of an association or body of teachers engaged in advancing the interests of education and designated by the regulations,
  - (viii) as an officer of an association or body of boards or of school trustees and ratepayers engaged in advancing the interests of education and designated by the regulations,
  - (ix) by the Minister or a board in any capacity designated by the regulations,
- but no person shall be deemed to be employed who,
- (x) is not qualified as a teacher under the Acts and regulations administered by the Department,
  - (xi) is regularly engaged outside Ontario and who is performing services in Ontario under a teachers' exchange system approved by the Minister, or
  - (xii) is a contributor to the Public Service Retirement Fund or to a fund to which the Crown contributes except the Teachers' Superannuation Fund;
- (e) "Fund" means the Teachers' Superannuation Fund;
  - (f) "Minister" means the Minister of Education;
  - (g) "regulations" means the regulations made under this Act;
  - (h) "Treasurer" means the Treasurer of Ontario. R.S.O. 1950, c. 384, s. 1; 1951, c. 86, s. 1; 1953, c. 103, s. 1; 1954, c. 93, s. 1; 1957, c. 122, s. 1; 1960, c. 119, s. 1.

Commission,  
continued

**2.**—(1) The Teachers' Superannuation Commission is continued. R.S.O. 1950, c. 384, s. 2 (1), *revised*.

composition

(2) The Commission shall be composed of,

- (a) six persons who shall be appointed by the Minister; and
- (b) five contributors to the fund who shall be elected by ballot by the contributors to the fund who are members of the teachers' organizations designated in the regulations. 1959, c. 99, s. 1 (1).

chairman

(3) The Minister shall designate triennially one of the members as chairman.

(4) When a vacancy occurs among the members, another <sup>vacancies</sup> member shall be appointed or elected, as the case may be, so soon as is practicable after the vacancy occurs, and the person so appointed or elected shall hold office for the unexpired portion of the term of the member he replaces.

(5) Each member is eligible for re-appointment or re-<sup>re-election,</sup> election, as the case may be. R.S.O. 1950, c. 384, s. 2 (3-5). <sup>etc.</sup>

(6) Each member shall hold office for three years and until <sup>term of</sup> his successor is appointed or elected, as the case may be. <sup>office</sup> R.S.O. 1950, c. 384, s. 2 (6); 1959, c. 99, s. 1 (2).

(7) The Commission shall meet in the offices of the Depart- <sup>meetings</sup> ment of Education in Toronto on the third Friday in September, November and January, the Thursday following Easter, the third Saturday in June and at such other times as the chairman determines. R.S.O. 1950, c. 384, s. 2 (7).

(8) Eight members constitute a quorum. 1959, c. 99, s. 1 (3). <sup>quorum</sup>

**3.** It is the duty of the Commission to administer this Act <sup>Duties</sup> and in so doing it shall determine the right of every applicant <sup>and powers</sup> to receive an allowance or a refund and the amount thereof. R.S.O. 1950, c. 384, s. 3.

**4.** The Lieutenant Governor in Council may appoint a <sup>Officers,</sup> secretary, an actuary, a solicitor, a medical referee and such <sup>clerks, etc.</sup> other officers and staff of the Commission as he deems proper, all of whom shall be paid out of the Fund. R.S.O. 1950, c. 384, s. 4.

**5.—(1)** The Teachers' Superannuation Fund is continued. <sup>Fund</sup>

(2) The Treasurer is the custodian of the Fund. R.S.O. <sup>Custodian</sup> 1950, c. 384, s. 5 (1, 2), *revised*. <sup>of Fund</sup>

(3) The actuary of the Commission shall make an actuarial <sup>Actuarial</sup> valuation of the Fund as of the 31st day of December, 1958, <sup>valuation</sup> and as of the 31st day of December of each third year thereafter, but the Minister may direct him to make additional actuarial valuations of the Fund at any time. 1959, c. 99, s. 2; 1960, c. 119, s. 2.

**6.** The Commission may receive any gift, devise or bequest <sup>Receiving</sup> made to or for the purposes of the Fund and shall pay it or <sup>gifts, etc.,</sup> the proceeds thereof into the Fund to be applied as directed <sup>for Fund</sup> by the donor, and, if so directed, in additional benefits to those provided by this Act or, in the absence of such a direction, to the general purposes of the Fund. R.S.O. 1950, c. 384, s. 6.

Issue of  
Ontario  
Government  
stock  
confirmed

7.—(1) The issue by the Treasurer of Ontario Government stock in the sum of \$31,200,000 dated the 1st day of November, 1942, and bearing interest at the rate of  $4\frac{3}{4}$  per cent per annum payable half-yearly and maturing on the 1st day of November, 1982, and being a charge upon the Consolidated Revenue Fund, is confirmed. R.S.O. 1950, c. 384, s. 7 (1).

1952 issue  
of 40-year  
Ontario  
Government  
stock  
confirmed

(2) The issue by the Treasurer of Ontario Government stock in the sum of \$43,000,000 dated the 1st day of November, 1952, and bearing interest at the rate of  $4\frac{1}{2}$  per cent per annum payable half-yearly and maturing on the 1st day of November, 1992, and being a charge on the Consolidated Revenue Fund, is confirmed.

Annual  
debentures  
1952-1962  
authorized

(3) In each year during the period commencing the 1st day of November, 1952, and ending on the 1st day of November, 1962, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds in the Fund accumulated and not required for current expenditures, such debentures or stock to become due and payable on the 1st day of November, 1962, and to bear interest at the rate of  $4\frac{1}{2}$  per cent per annum payable half-yearly.

1962 issue  
of 40-year  
Ontario  
Government  
stock  
authorized

(4) On the 1st day of November, 1962, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds accumulated in the Fund and not required for current expenditures and for the amount of the debentures or stock issued during the preceding ten-year period under subsection 3, such debentures or stock to become due and payable on the 1st day of November, 2002, and to bear interest at the rate of  $4\frac{1}{2}$  per cent per annum payable half-yearly. 1953, c. 103, s. 3.

Debentures  
authorized,  
10-year  
periods

(5) In each year during each succeeding ten-year period the Treasurer shall issue Ontario Government debentures or stock for the amount of surplus funds in the Fund accumulated from time to time and not required for current expenditures, such debentures or stock to become due and payable on the last day of such ten-year period and to bear interest, payable half-yearly, at a rate agreed upon at the beginning of such period between the Treasurer and the Commission and approved by the Lieutenant Governor in Council as being applicable for that period.

Forty-year  
debentures

(6) On the 1st day of November, 1972, and on the 1st day of November of each succeeding ten-year period, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds accumulated in the Fund and not required for current expenditures and for the amount of the debentures or stock issued during the next preceding ten-year period under subsection 5, such debentures or stock to become



due and payable at the end of a period of forty years from the date of issue and to bear interest at the same rate as the debentures or stock issued under subsection 5 during the ten-year period next preceding the date of the issue of such forty-year debentures or stock.

(7) The Ontario Government debentures and stock issued under this section are a charge upon the Consolidated Revenue Fund. Charge on Consolidated Revenue Fund

(8) All securities belonging to the Fund shall be deposited with the Treasurer who is responsible for their safekeeping. R.S.O. 1950, c. 384, s. 7 (6-9). Securities to be deposited

8. When the payments into the Fund in any year are insufficient to make the required payments out of the Fund, the deficiency shall be made up out of the Consolidated Revenue Fund. R.S.O. 1950, c. 384, s. 8. Deficiency

9. Accounts shall be kept in which shall be entered all assets and liabilities and payments into and disbursements out of the Fund. R.S.O. 1950, c. 384, s. 9. Accounts

10. The period from the 1st day of November to the 31st day of October of the year next following constitutes the fiscal year of the Commission. R.S.O. 1950, c. 384, s. 10. Fiscal year

11. Except where otherwise specifically provided by this Act, Interest

- (a) interest payable under this Act or the regulations shall be at the rate of  $4\frac{3}{4}$  per cent per annum, compounded half-yearly; and
- (b) interest shall be payable on any payment into or out of the Fund, other than an allowance, which is six months or more in arrear. R.S.O. 1950, c. 384, s. 11.

12.—(1) The accounts of the Fund shall be audited and the securities in which the moneys of the Fund may be invested shall be examined and checked in each year by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council appoints, and the auditor shall make an annual report, and prepare and furnish such other statements to the Treasurer as he requires. Audit

(2) The cost of such audits and reports shall be paid by the Commission out of the Fund. R.S.O. 1950, c. 384, s. 12. Costs and expenses of audit

13.—(1) The Commission shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Commission. Annual report

Tabling  
report

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall lay the report before the Assembly, if it is then in session, or if not, at the next ensuing session. R.S.O. 1950, c. 384, s. 13.

Payments  
into Fund

**14.** An account shall be kept in a chartered bank of Canada in the name of the Treasurer as custodian of the Fund, and every amount received as a payment into the Fund shall be deposited to the credit of such account. R.S.O. 1950, c. 384, s. 14.

Payments  
out of Fund

**15.**—(1) Every allowance, every refund, and the expenses of the administration of this Act are payable out of the Fund and every such payment shall be made by the cheque of the Treasurer signed by him or by the Deputy Treasurer or by such other person as is appointed by the Treasurer for that purpose, and countersigned by the chairman of the Commission or by any other member of the Commission designated by the Commission.

Days of  
employment  
to be  
indicated

(2) The payee of a cheque for an allowance shall indicate on the back thereof the number of days, if any, he was employed during the month for which the cheque was issued, and if he fails to do so, the Commission may direct that no further allowance be paid him until he complies with this subsection. R.S.O. 1950, c. 384, s. 15.

Bank loans

**16.**—(1) The Treasurer, as custodian of the Fund, may, at the request of the Minister, arrange for a chartered bank of Canada to advance to the Fund, by way of overdraft or otherwise, any amount required temporarily to provide for payments out of the Fund and may furnish securities of the Commission as security therefor, and every such advance shall be repaid within one year out of interest or contributions to the Fund, or both. R.S.O. 1950, c. 384, s. 16.

Short-term  
investments

(2) The Treasurer, as custodian of the Fund, may at the request of the Minister, when both the Treasurer and the Minister deem it advisable for the sound and efficient management of the Fund, invest any part of the Fund for any period not exceeding twelve months in any securities in which the Treasurer may invest the public moneys of Ontario. 1955, c. 86, s. 1.

Designated  
private  
schools

**17.**—(1) Any school, college, academy or other educational institution,

(a) that is giving instruction equivalent to that given in elementary or secondary schools in Ontario;

- (b) that is not operated for personal profit or gain and where the profits, if any, are used to develop its objects;
- (c) that is not supported in any way by school taxes or by provincial or municipal grants; and
- (d) whose governing body has undertaken in writing,
  - (i) to make such annual reports to the Commission as the Commission requires and to supply such information as to its constitution, operations, teaching staff and otherwise as the Commission requires, and
  - (ii) to pay monthly to the Commission a sum equal to 6 per cent of the salaries of the persons on its teaching staff who are contributing to the Fund under this section together with a sum calculated thereon at a rate equal to the rate of the contributions to the Fund made by the Province from time to time under section 23,

may be designated by the Lieutenant Governor in Council as a private school for the purposes of this Act, effective on the 1st day of September next following the designation, and thereupon this Act and the regulations apply to such designated private school as if it were specifically named in subclause v of clause *d* of section 1.

(2) Where a person on the teaching staff of a designated private school who is contributing to the Fund receives, in addition to his salary, any board, lodging or other perquisite, his salary shall, for the purposes of this Act, be determined by the Commission, regard being had to the value of the board, lodging or other perquisite.

(3) Subject to the right of a person to establish credit in the Fund in respect of war service under subsection 6, a person may establish credit in the Fund under this section only in respect of teaching service rendered while qualified as a teacher under the Acts and regulations administered by the Department and only in respect of teaching service equivalent to that given in elementary or secondary schools in Ontario.

(4) Subject to subsection 3 and except as provided in subsection 5, every person on the teaching staff of a designated private school shall be deemed to be employed within the meaning of this Act.

(5) Every person who commenced his duties on the teaching staff of a designated private school before the designation be-

comes effective may, by notice in writing to the governing body of the school and to the Commission given within three months after the designation becomes effective, exclude himself from the benefits and obligations of this Act so long as he remains on the teaching staff of a designated private school.

Establish-  
ment of  
credit for  
past  
service

(6) Every person who comes within subsection 4 may establish credit in the Fund in respect of past teaching service in any designated private school in accordance with the regulations or in any other school to which this Act applies in accordance with section 50, or in respect of war service in accordance with the regulations.

Termina-  
tion of  
designation

(7) The Lieutenant Governor in Council may terminate the designation of a designated private school effective on the 31st day of August next following, and thereupon the persons on the teaching staff of that school who contributed to the Fund shall, for the purposes of this Act, be deemed to have withdrawn from the profession. 1957, c. 122, s. 2.

Contribu-  
tions

**18.**—(1) Every person who is employed shall contribute to the Fund 6 per cent of his salary.

Salaries  
under  
\$1,000

(2) Where the annual rate of salary is less than \$1,000, it shall, for the purposes of this section, be deemed to be at the annual rate of \$1,000. R.S.O. 1950, c. 384, s. 17 (1, 2).

Interpre-  
tation

(3) In this section, "salary" means the yearly salary specified in the contract of employment between the person and his board and includes a cost of living or other similar bonus but does not include any additional remuneration for extra services. 1958, c. 109, s. 1.

Salary from  
different  
sources

(4) Where a person receives part of his salary in respect of employment of a type prescribed in subclauses i to ix of clause *d* of section 1 and part of his salary in respect of other employment, for the purposes of this Act,

- (a) his salary shall be deemed to be only the amount of the salary that he receives in respect of such prescribed employment; and
- (b) he shall be given credit for only that portion of each school year that bears the same proportion to the school year as the portion of his salary that he receives in respect of such prescribed employment bears to his total salary for such year. R.S.O. 1950, c. 384, s. 17 (4).

Contribu-  
tions to be  
deducted

**19.**—(1) Contributions shall be deducted by the board or other authority employing the person from each payment of his salary and the Treasurer shall annually deduct the total

amount of such contributions from the total legislative grant payable to the board or other authority and place it to the credit of the Fund, but, if the amount of such grant is less than the total amount of such contributions, the board or other authority shall pay the balance to the Treasurer, who shall place it to the credit of the Fund. R.S.O. 1950, c. 384, s. 18 (1).

(2) Every board and other authority shall report to the Commission at the beginning of each calendar year as to the contributions it deducted in the next preceding calendar year. 1953, c. 103, s. 4.

Report of contributions

**20.** In the case of a person who is a contributor to the Fund and whose salary is paid by the Government of Ontario, the amount payable by him shall be retained out of his salary and placed to the credit of the Fund. R.S.O. 1950, c. 384, s. 19.

Special cases

**21.** A person who,

(a) ceases to be employed or is granted leave of absence from his employment without salary for any purpose and for a period permitted by the regulations; or

(b) is employed by a board that refuses or neglects to comply with section 19, or that by reason of non-compliance with any statute or regulation is not entitled to share in the legislative grant for the schools under its jurisdiction,

When contributions may be made directly

may contribute to the Fund on such terms and conditions and at such times as the regulations prescribe. R.S.O. 1950, c. 384, s. 20; 1957, c. 122, s. 3.

**22.** Any contribution, except when made under clause a of section 21, that through error has not been received in the regular way and at the customary time may be subsequently accepted by the Commission. R.S.O. 1950, c. 384, s. 21.

Error in tendering contribution

**23.** Annually and at the same time as contributions are placed to the credit of the Fund under section 19, the Treasurer shall place to the credit of the Fund,

Contributions by Province

- (a) sums equal to those contributed under section 18;
- (b) sums equal to those transferred from the Public Service Retirement Fund; and
- (c) in the case of moneys paid into the Fund under the regulations for the purpose of establishing service credits, sums equal to the sums he would have credited to the Fund if such moneys had been con-

tributed in the usual way during the periods represented by the service credits. 1955, c. 86, s. 2; 1957, c. 122, s. 4.

## Interest

**24.** All sums placed to the credit of the Fund during a fiscal year under subsection 1 of section 19 and section 23 shall be deemed to have been credited as of the 1st day of June in the preceding fiscal year, and the Treasurer shall pay interest thereon at the rate of 4 per cent for the period between that day and the last day of the fiscal year in which the sums were actually received. 1953, c. 103, s. 5.

Retirement  
at 62 after  
35 years  
service, "A"  
pension

**25.—(1)** Every person who,

- (a) has credit in the Fund for thirty-five or more school years;
- (b) is sixty-two or more years of age; and
- (c) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1950, c. 384, s. 24 (1).

## Amount

(2) The amount of such allowance shall be computed by dividing the amount of his average salary for the last ten years for which he made contributions to the Fund by 50 and multiplying the quotient by a number equal to the number of school years for which he has credit in the Fund, but not exceeding 35.

## Computation

(3) For the purpose of computing the amount of such allowance,

- (a) each school year for which his contributions are in the Fund at the time of his application for an allowance counts as a school year of credit;
- (b) each school year for which he was employed before the 1st day of April, 1917, counts as one-half school year of credit; and
- (c) each school year for which he made contributions to the Public Service Superannuation Fund, which contributions are in the Fund at the time of his application for an allowance, counts as a school year of credit.

Where less  
than \$600

(4) If the amount of such allowance as computed is less than \$600, it shall be \$600. R.S.O. 1950, c. 384, s. 24 (2); 1953, c. 103, s. 6; 1954, c. 93, s. 2, *amended*.

**26.**—(1) Every person who,

(a) has credit in the Fund for forty or more school years; and

Retirement  
after 40  
years  
service, "A"  
pension

— (b) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1950, c. 384, s. 25 (1).

(2) The amount of such allowance shall be computed in the manner prescribed by subsection 2 of section 25 but no such allowance shall be less than \$600. R.S.O. 1950, c. 384, s. 25 (2); 1953, c. 103, s. 7.

Amount

**27.**—(1) Every person who,

(a) has credit in the fund for thirty or more school years; and

Retirement  
after 30  
years  
service, "B"  
pension

(b) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1950, c. 384, s. 26 (1).

(2) The amount of such allowance shall be computed in the manner prescribed by subsection 2 of section 25 but is subject to such reduction as is prescribed by the regulations having regard to the length of service and to the age of the applicant, but no such allowance shall be less than \$600. R.S.O. 1950, c. 384, s. 26 (2); 1953, c. 103, s. 8.

Amount

**28.**—(1) Every person who,

(a) has credit in the Fund for twenty-five or more but less than thirty years;

Retirement  
after 25  
years  
service, "B"  
pension

(b) has been employed for five years or more after attaining the age of fifty-five years; and

(c) after attaining the age of sixty-two years has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1950, c. 384, s. 27 (1).

(2) The amount of such allowance shall be computed in the manner prescribed in subsection 2 of section 25 but is subject to such reduction as is prescribed in the regulations having regard to the length of service of the applicant, but no such allowance shall be less than \$600. R.S.O. 1950, c. 384, s. 27 (2); 1953, c. 103, s. 9.

Amount

**29.**—(1) Every person who,

(a) has credit in the Fund for fifteen or more school years;

Retirement  
on account  
of total  
permanent  
disability,  
"C" pension

(b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of further earning his livelihood; and

(c) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 44, entitled to an annual disability allowance during his lifetime. R.S.O. 1950, c. 384, s. 28 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by subsection 2 of section 25 but no such allowance shall be less than \$600. R.S.O. 1950, c. 384, s. 28 (2); 1953, c. 103, s. 10.

Retirement  
on account of  
permanent  
disability  
as teacher,  
"CB"  
pension

**30.—(1)** Every person who,

(a) has credit in the Fund for fifteen or more school years;

(b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of being further employed as a teacher or inspector; and

(c) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 44, entitled to an annual disability allowance during his lifetime. R.S.O. 1950, c. 384, s. 29 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by subsection 2 of section 25 but is subject to such reduction as is prescribed by the regulations having regard to the length of service and to the age of the applicant, but no such allowance shall be less than \$600. R.S.O. 1950, c. 384, s. 29 (2); 1953, c. 103, s. 11.

Student  
teachers  
with im-  
pairment

**31.—(1)** Where the medical examination prescribed for admission to the Ontario College of Education or to a teachers' college discloses in a person a mental or physical impairment, defect or condition, or a history of any of them, that in the opinion of the Commission does not render the person incapable of being employed but might subsequently render him incapable of being employed by re-occurrence, worsening or the development of sequelae or complications, the person shall be admitted to the Ontario College of Education or to the teachers' college only if he signs a consent in the prescribed form to have this section apply to him in the event of his becoming employed.



(2) A person who has signed a consent under subsection 1<sup>Re-examination</sup> and who has been employed for fourteen or more school years may apply to the Commission for re-examination and, if in the opinion of the Commission the re-examination discloses that the mental or physical impairment, defect or condition in respect of which he signed the consent, or a complication or sequela thereof, is no longer likely to render him incapable of being employed, the Commission may cancel the consent and thereafter this section ceases to apply to him. 1959, c. 99, s. 3.

(3) Every person who has signed a consent under sub-<sup>Allowance</sup> section 1 and who,

- (a) has credit in the Fund for fifteen or more school years;
- (b) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of being further employed; and
- (c) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 44, entitled to an annual disability allowance during his lifetime.

(4) The amount of such allowance shall be,

Amount

- (a) in the case of a person who has credit in the Fund for less than twenty-five school years, an amount equal to that which would be payable under an annuity issued under the *Government Annuities Act* <sup>R.S.C. 1952, c. 132</sup> (Canada) purchased at the rates in force at the date of such application with an amount equal to all the contributions made by him to the Fund together with those made on his behalf by the Treasurer; and
- (b) in the case of a person who has credit in the Fund for twenty-five or more school years,
  - (i) the amount that he would be entitled to receive under section 25, 26, 27 or 28, or
  - (ii) the amount computed in the manner prescribed by clause a,

whichever is the larger. R.S.O. 1950, c. 384, s. 30 (2, 3).

**32.**—(1) Where a male person who has credit in the Fund for fifteen or more years dies while employed or within two years after ceasing to be employed on account of ill-health, or within one year after ceasing to be employed for any reason other than ill-health during which year he manifested to the <sup>Dependant's allowance, "D" pension</sup>

satisfaction of the Commission a *bona fide* intention of becoming employed as soon as possible, or where a male person who is in receipt of an allowance dies,

(a) leaving a widow, a dependant's allowance of an amount equal to,

(i) one-half of the allowance computed in the manner prescribed in subsection 2 of section 25, but based on the person's credit in the Fund at the time of his death, or

(ii) one-half of the allowance that the person was receiving at the date of his death,

as the case may be, shall be paid to his widow during her lifetime or during her widowhood, and where the widow dies or marries leaving a child or children who at the date of her death or marriage is or are under the age of eighteen years, a dependant's allowance of an amount equal to that paid to the widow shall be paid to the child or children until such age is attained; or

(b) leaving no widow but leaving a child or children under the age of eighteen years, a dependant's allowance of an amount equal to,

(i) one-half of the allowance computed in the manner prescribed in subsection 2 of section 25 but based on the person's credit in the Fund at the time of his death, or

(ii) one-half of the allowance that the person was receiving at the date of his death,

as the case may be, shall be paid to such child or children until such age is attained.

#### Exceptions

(2) Subsection 1 does not apply to the widow of a person if she married him after he attained the age of sixty years or after the date of his retirement, or to the children of any such widow.

#### Where dependant's allowance to be reduced

(3) Where the widow was at least ten years younger than her deceased husband, the payments under subsection 1 shall be reduced in such manner and in such amount as the regulations prescribe. R.S.O. 1950, c. 384, s. 31 (1-3).

#### Where person is a female

(4) This section applies *mutatis mutandis* to the widower of a female person where,

(a) the widower was permanently incapacitated and wholly supported by the deceased wife at the time

of her death or at the time of her cessation of employment, whichever was the earlier;

- (b) she had been married to the widower for at least ten years at the time of her death or at the time of her cessation of employment, whichever was the earlier; and
- (c) the child or children, if any, were fully supported by the person at the time of her death. R.S.O. 1950, c. 384, s. 31 (4); 1953, c. 103, s. 12.

(5) This section applies *mutatis mutandis* to the child or children of a female person, Children of deceased female teachers

- (a) who was a widow at the time of her death; or
- (b) who was married at the time of her death and who supported such child or children at the time of her death, where the widower is not entitled to an allowance under subsection 4.

(6) In this section, "child" includes an adopted child and a step-child and "children" has a corresponding meaning. Interpretation

(7) The minimum payment under this section shall be at the rate of \$300 per annum. R.S.O. 1950, c. 384, s. 31 (5-7). Minimum dependant's allowance

**33.** Where a person referred to in subclause ii of clause *a* or subclause ii of clause *b* of subsection 1 of section 32 was receiving a disability allowance under section 30 at the time of his death and provision was made for a special medical re-examination and no decision was made by the Commission on such re-examination, the Commission may, if it is of the opinion, having regard to the facts established at the time of his death, that the person should have been receiving a disability allowance under section 29, recompute his allowance under section 29 as of the date of his death for the purposes of a dependant's allowance under section 32. 1960, c. 119, s. 3. Recomputation of "CE" to "C" pension for purposes of "D" pension

**34.—(1)** A person to whom section 32 cannot apply may, by a direction in writing signed by him and deposited with the Commission at least two years before he ceases to be employed, direct that the allowance to which he would be entitled be converted and paid as an annuity to him upon his retirement for his lifetime and, after his death, at one-half the rate to any dependant named in the direction. Annuity in lieu of annual allowance

(2) A person who has not given a direction within the time prescribed in subsection 1 may, at a later date, but not after making application for an allowance, give such a direction upon passing a medical examination satisfactory to the Commission. Where direction not given

Revocation  
of direction

(3) A person who has given a direction under this section may, at any time before he ceases to be employed, revoke it.

Where  
direction not  
effective

(4) Where a person who has given a direction under this section dies,

(a) before he makes application for an allowance; or

(b) before he ceases to be employed,

the direction has no effect. R.S.O. 1950, c. 384, s. 32.

Application  
for  
allowance

**35.** An allowance under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form. R.S.O. 1950, c. 384, s. 33.

Proof of  
disability

**36.** No application for a disability allowance shall be considered by the Commission until the Commission has obtained,

(a) the certificate of a legally qualified medical practitioner designated by the Commission, certifying that while employed the applicant became mentally or physically incapacitated and indicating the nature and degree of the incapacitation; and

(b) the report of the medical referee of the Commission containing such recommendations as he deems proper with regard to the granting of an allowance to the applicant. R.S.O. 1950, c. 384, s. 34.

Only one  
allowance

**37.** A person is not entitled to receive at any one time more than one allowance under this Act. R.S.O. 1950, c. 384, s. 35.

Allowances  
to be paid  
monthly

**38.** Every allowance is payable in monthly instalments and is apportionable to the date of death. R.S.O. 1950, c. 384, s. 36.

Commence-  
ment of  
allowances,  
superannua-  
tion;  
disability

**39.—(1)** Every allowance shall commence as of the first day of the month next following the month during which the applicant ceased to be employed, except that a disability allowance shall not commence as of a date earlier than one year before the date upon which the completed application therefor reaches the Commission.

dependants

(2) Every dependant's allowance shall commence as of the day following the death of the person in respect of whom it is payable. R.S.O. 1950, c. 384, s. 37.

Re-  
employment

**40.—(1)** Where a person who is receiving a superannuation allowance becomes employed upon either a temporary or a

permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing forfeits any further claim to any benefit under this Act unless the Commission otherwise directs. R.S.O. 1950, c. 384, s. 38 (1); 1953, c. 103, s. 13.

(2) Where a person who is receiving a disability allowance <sup>Idem</sup> becomes employed upon either a temporary or a permanent basis or becomes engaged as a teacher in a school or institution either in or outside Ontario upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing forfeits any further claim to any benefit under this Act unless the Commission otherwise directs. R.S.O. 1950, c. 384, s. 38 (2).

**41.**—(1) Where a person who is receiving a superannuation allowance becomes employed, <sup>Re-employment, effect</sup>

- (a) the allowance shall cease to be paid; and
- (b) he shall contribute to the Fund during the period that he is employed. R.S.O. 1950, c. 384, s. 39 (1); 1953, c. 103, s. 14.

(2) Where a person who is receiving a disability allowance <sup>Idem</sup> becomes employed,

- (a) the allowance shall cease to be paid;
- (b) he shall contribute to the Fund during the period that he is employed; and
- (c) he shall repay to the Fund the amount of the allowance received by him, with accumulated interest.

(3) Where a person who is receiving a disability allowance <sup>Idem</sup> becomes engaged as a teacher in a school or institution either in or outside Ontario but is not employed within the meaning of clause *d* of section 1,

- (a) the allowance shall cease to be paid; and
- (b) he shall repay to the Fund the amount of the allowance received by him, with accumulated interest. R.S.O. 1950, c. 384, s. 39 (2, 3).

**42.** Where a person who ceased to receive a superannuation allowance because of re-employment again ceases to be employed, <sup>Resumption of super-annuation allowance</sup>

- (a) in the case of a person who has been re-employed for a period of less than two school years, payment of the allowance shall be resumed without any adjust-

ment in the amount thereof, upon receipt by the Commission of a notice in writing of the cessation of employment;

- (b) in the case of a person who has been so employed for a period of two or more school years, an application for an allowance shall be treated as an application for a new allowance; and
- (c) in no case is he entitled to receive a disability allowance. R.S.O. 1950, c. 384, s. 40 (1).

Recipient of  
disability  
allowance  
becoming  
employed

**43.** Where a person who is receiving a disability allowance becomes employed or becomes engaged as a teacher in or outside Ontario,

- (a) any application subsequently made for an allowance shall be treated as an application for a new allowance; and
- (b) any allowance or refund that he may subsequently become entitled to receive shall be reduced actuarially by any amount that he has failed to repay to the Fund in accordance with section 41. R.S.O. 1950, c. 384, s. 41.

Evidence of  
mental or  
physical  
condition

**44.—(1)** The Commission may at any time require a person who,

- (a) is receiving a disability allowance under section 29 or 30; or
- (b) having been employed for less than thirty years, is receiving a disability allowance under section 31; or
- (c) being a widower, is receiving a dependant's allowance,

to furnish evidence, in such form as it directs, of his mental or physical condition.

Failure to  
furnish  
evidence

(2) Where the person fails to furnish evidence that his mental or physical condition continues to be of a nature that would entitle him to receive an allowance under the section under which his allowance is paid, the Commission may direct that the allowance shall cease to be paid and that no further allowance shall be paid to him or that such other allowance as the Commission finds him to be entitled to shall be paid to him. R.S.O. 1950, c. 384, s. 42.

Where payee  
incapable

**45.** Where the Commission is satisfied that a person to whom an allowance is payable under this Act is incapable of managing his own affairs, the Commission may direct that

any cheque for moneys payable to him be made payable to a member of his family or household, and in that case the endorsement of the cheque by the person so designated by the Commission is a sufficient discharge of the Fund to the extent of such payment. R.S.O. 1950, c. 384, s. 43.

**46.** The interest of a person in the Fund and in an allowance under this Act is not subject to garnishment, attachment, seizure or other process of law and is not assignable. R.S.O. 1950, c. 384, s. 44. No attachment, etc.

**47.—(1)** A refund under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form. Refunds, application for

(2) Every refund shall be paid in a lump sum unless the person to whom it is payable, or, where he has died, his personal representative, states in the application that he wishes the amount to be paid in instalments, in which case the amount shall be paid in three equal instalments without additional interest on the days fixed by the Commission for the purpose. R.S.O. 1950, c. 384, s. 45. Manner of payment

(3) Where the person to whom a refund is payable dies and has no personal representative, the refund may be paid to such person as the Commission designates. 1957, c. 122, s. 5. Where no personal representative

**48.—(1)** A person who was employed for five or more school years and ceased to be employed by withdrawing from the profession before the 31st day of March, 1949, is entitled to a refund of an amount equal to the whole of his contributions to the Fund with interest at the rate of  $1\frac{1}{2}$  per cent per annum compounded half-yearly from the date of cessation of employment to the 31st day of March, 1949. Refunds to persons who ceased teaching before March 31st, 1949

(2) A person who was employed after the 1st day of April, 1949, for twenty or more days in a school year and ceases to be employed by withdrawing from the profession is entitled to a refund of an amount equal to the whole of his contributions to the Fund, but no such refund shall be made until three months have elapsed after the date upon which the person ceased to be employed. 1953, c. 103, s. 16. Refunds to persons who ceased teaching after April 1st, 1949

(3) A person who has been employed for fifteen or more school years and who, because he has reached the age limit specified in a by-law or resolution of the board or other authority employing him, ceases to be employed before he becomes entitled to an allowance under this Act, is entitled to a refund of an amount equal to the amounts contributed by him to the Fund with interest to the date of refund at the rate of 4 per cent per annum compounded half-yearly. Forced retirement

When  
employment  
deemed  
to end

(4) For the purposes of this section, the date upon which a person shall be deemed to have ceased to be employed is the last day for which he was paid in the last school year during which he was employed for twenty days or more. R.S.O. 1950, c. 384, s. 46 (2, 3).

Second  
refunds,  
subsequent  
employment  
terminating  
before  
April 1st,  
1949

**49.** A person who withdrew his contributions from the Fund and subsequently was employed and ceased to be so employed before the 1st day of April, 1949, is entitled to a refund of an amount equal to the whole of his contributions during such period of subsequent employment together with interest on the total of all the contributions that he has made to the Fund at the rate of  $1\frac{1}{2}$  per cent per annum compounded half-yearly from the date of cessation of such subsequent employment to the 31st day of March, 1949, less interest on the amount of his first withdrawal at the rate of  $4\frac{3}{4}$  per cent per annum from the date of his first withdrawal to the 31st day of March, 1949. 1954, c. 93, s. 4.

Repayment  
of refunds  
on re-  
employment

**50.—(1)** A person who has withdrawn his contributions from the Fund and subsequently is employed for not fewer than twenty days in a school year and desires to be reinstated in the Fund in respect of his former period of employment may be so reinstated by paying into the Fund within five years from the date he commenced the subsequent period of employment the amount of contributions previously refunded to him, with interest at the rate of  $4\frac{3}{4}$  per cent per annum compounded half-yearly for the period from the date of his return to employment until the date of the completion of his repayment of the withdrawal, and any disability or superannuation allowance or other payment out of the Fund to which he may be entitled during the period of repayment shall be reduced actuarially during his lifetime by the amount withdrawn and not repaid.

Idem,  
after  
5 years

(2) A person who has withdrawn his contributions from the Fund and subsequently is employed for not fewer than twenty days in a school year and desires to be reinstated in the Fund in respect of his former period of employment may be so reinstated by paying into the Fund at any time after the expiration of the five-year period mentioned in subsection 1 the amount of contributions previously refunded to him, with interest at the rate of  $4\frac{3}{4}$  per cent per annum compounded half-yearly for the period from the date of the withdrawal or from the 1st day of April, 1949, whichever is the later date, until the date of the completion of his repayment of the withdrawal, and any disability or superannuation allowance or other payment out of the Fund to which he may be entitled during the period of repayment shall be reduced actuarially during his lifetime by the amount withdrawn and not repaid.



(3) No person who has withdrawn his contributions from the Fund and is subsequently employed and elects to be re-instituted in the Fund under subsection 1 or 2 is eligible for a disability allowance under section 29 or 30 nor are his dependants eligible for a dependant's allowance under section 32 until he has been employed for two school years after his return to employment. 1957, c. 122, s. 6.

**51.** Where a person who ceased to be employed before he had been employed for a period of five school years dies within two years of such cessation of employment, his personal representative is entitled to a refund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per annum compounded half-yearly. R.S.O. 1950, c. 384, s. 50; 1953, c. 103, s. 19.

**52.** Where a person who is in receipt of a superannuation allowance was employed before the 1st day of April, 1949, no refund in respect of his contributions made after his return to employment shall be made except upon his death. R.S.O. 1950, c. 384, s. 51; 1953, c. 103, s. 20.

**53.** Notwithstanding sections 48, 51 and 52, a person who has been employed for fewer than twenty days in a school year is entitled to a refund of an amount equal to the whole of his contributions to the Fund for that school year, without interest. R.S.O. 1950, c. 384, s. 52; 1953, c. 103, s. 21.

**54.** Where a person who has been employed for five or more years and who is not in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative is entitled to a refund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per annum compounded half-yearly. R.S.O. 1950, c. 384, s. 53; 1953, c. 103, s. 22.

**55.** Where a person who is in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative is entitled to a refund of an amount equal to the amounts contributed by the person to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per annum compounded half-yearly, reduced by an amount equal to the amounts paid out of the Fund to the person with

interest to the date of death at the rate of 3 per cent per annum compounded half-yearly. R.S.O. 1950, c. 384, s. 54; 1953, c. 103, s. 23.

Refund  
where dis-  
ability  
allowance  
ceased to  
be paid

**56.** A person whose allowance ceased to be paid under section 44, other than a widower under section 32, is entitled to a refund out of the Fund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund at the rate of 3 per cent per annum compounded half-yearly, reduced by an amount equal to the amounts paid out of the Fund to him with interest at the rate of 3 per cent per annum compounded half-yearly. R.S.O. 1950, c. 384, s. 55; 1953, c. 103, s. 24.

Refund  
where  
dependant's  
allowance  
less than  
contribu-  
tions

**57.** Where the payments made under section 32, or the amount of the allowance and any payments made under section 32, as the case may be, with interest at 3 per cent per annum compounded half-yearly to the date of cessation of the payments, are less than the amount of the contributions of the person, with interest on each amount for the period of time it was in the Fund at 3 per cent per annum compounded half-yearly to the same date, the amount of the difference shall be paid to his personal representative. R.S.O. 1950, c. 384, s. 56; 1953, c. 103, s. 25.

Regulations

**58.** The Lieutenant Governor in Council may make regulations,

1. designating schools or classes within the meaning of subclause ii of clause *d* of section 1 or within the meaning of subclause iv of clause *d* of section 1;
2. designating associations or bodies of teachers within the meaning of subclause vii of clause *d* of section 1; R.S.O. 1950, c. 384, s. 57, cls. (*a*, *b*).
3. designating associations or bodies of boards or of school trustees and ratepayers within the meaning of subclause viii of clause *d* of section 1; 1960, c. 119, s. 4 (1).
4. designating capacities within the meaning of subclause ix of clause *d* of section 1; R.S.O. 1950, c. 384, s. 57, cl. (*c*).
5. designating teachers' organizations for the purpose of clause *b* of subsection 2 of section 2; 1959, c. 99, s. 4 (1).
6. prescribing the powers and duties of the officers of the Commission, or any of them;

7. prescribing the manner in which the nomination and election of the elected members of the Commission shall be conducted;
8. prescribing the form and manner in which and by whom the accounts and records of the Commission shall be kept;
9. prescribing the terms and conditions and times that persons may contribute to the Fund under section 21;
10. prescribing the form of application for an allowance or refund and the information and material to be furnished therewith, including the form thereof, and prescribing other information and material that shall be taken into consideration by the Commission in considering applications for allowances or refunds;
11. prescribing the procedure to be followed by the Commission in considering and disposing of applications for allowances or refunds;
12. requiring persons who are contributors to the Fund or persons who are receiving allowances from the Fund, and boards, to furnish information to or for the use of the Commission and prescribing the form thereof;
13. authorizing the Commission to require persons who are contributors to the Fund or persons who are receiving allowances from the Fund, and boards, to furnish information to or for the use of the Commission and prescribing the form thereof;
14. prescribing the system of reductions that shall be applied in computing the allowances provided for in sections 27, 28 and 30;
15. prescribing the manner and amount of reduction of payments provided for in subsection 3 of section 32;
16. prescribing the manner of calculating the rates and amounts of annuities payable under section 34; R.S.O. 1950, c. 384, s. 57, cls. (d-n).
17. governing persons who have been absent from duty,
  - (a) because of ill-health,
  - (b) because of pregnancy,
  - (c) because of duties as jurors,
  - (d) because of duties as members of the Legislative Assembly of Ontario or of the House of Commons of Canada,

- (e) in order to take a course of study approved by the Commission,
- (f) for a period of sabbatical leave under the by-law of the employing board, or
- (g) in order to travel, where the purpose of the travel is approved by the Commission,

and providing for and regulating the payment of contributions to the Fund in respect of such periods of absence; 1953, c. 103, s. 26 (1); 1959, c. 99, s. 4 (2); 1960, c. 119, s. 4 (2, 3).

18. governing persons who ceased to be employed,

- (a) because of ill-health,
- (b) because of pregnancy,
- (c) because of duties as members of the Legislative Assembly of Ontario or the House of Commons of Canada,
- (d) in order to take a course of study approved by the Commission, or
- (e) in order to travel, where the purpose of the travel is approved by the Commission,

and who are again employed and providing for and regulating the payment of contributions to the Fund in respect of such periods of unemployment; 1960, c. 119, s. 4 (4).

19. prescribing the conditions under which credit may be given under the Act for teaching or inspectorial services performed,

- (a) in any part of Canada or the Commonwealth, other than Ontario, or
- (b) in a school maintained by the Government of Canada for children of members of the armed forces of Canada, for Indians, or for inmates of penal institutions,

where the person is subsequently employed within the meaning of this Act, and prescribing the amount of such credit; R.S.O. 1950, c. 384, s. 57, cl. (p); 1951, c. 86, s. 2 (1).

20. prescribing the conditions under which credit may be given under the Act for any period not exceeding five years of such teaching or inspectorial services

performed in a foreign country as the Commission approves, and prescribing the amount of such credit; 1954, c. 93, s. 5 (1).

21. prescribing the conditions under which credit may be given under the Act for teaching music, art and crafts, physical and health education, home economics, industrial arts and crafts or any other special subject for fewer than twenty hours per week before the 1st day of September, 1957, and prescribing the method of determining the period for which such credit may be given and the amount thereof;
22. prescribing the conditions under which credit for past teaching service in a designated private school may be given under the Act to persons who contribute to the Fund under any provision of the Act other than section 17, and prescribing the method of determining the period for which such credit may be given and the amount thereof; 1958, c. 109, s. 2.
23. providing for and regulating the payment out of the Fund into a similar fund established by the Government of Canada or the government of a province of Canada of the contributions to the Fund of a teacher or inspector who ceases to be employed within the meaning of this Act and who becomes a contributor to any such similar fund; 1951, c. 86, s. 2 (2).
24. prescribing the conditions under which credit in the Fund may be given where moneys are transferred to the Fund from the Public Service Retirement Fund or the Public Service Superannuation Fund and prescribing the method of determining the period for which credit shall be given;
25. defining the meaning of "part-time employment" for the purpose of the regulations and prescribing the method of determining the period for which credit shall be given for part-time employment; 1957, c. 122, s. 7.
26. prescribing special provisions governing the conditions under which persons in receipt of allowances may become employed during a period that is declared by the regulations to be a period during which there is urgent need for their services and providing for reductions in the allowances paid to them;

27. prescribing special provisions in respect of active service or special war service or time spent receiving medical or surgical treatment for a disability sustained while on active service or special war service, including,
  - (a) the defining of active service and special war service,
  - (b) the contributions required or permitted to be made in respect of such periods and the time and manner of making such contributions,
  - (c) the credit to be given for periods spent in such service or while receiving such treatment,
  - (d) generally such provisions as may be necessary to extend to persons employed the benefits available under this Act in respect of such periods;
28. respecting persons employed in schools whose board or teachers, or both, are reported by the Minister to the Commission as having failed to comply with any Acts or regulations administered by the Department including,
  - (a) the terms and conditions upon which contributions shall be made to the Fund,
  - (b) the credit to be given to such persons in respect of the period of non-compliance; R.S.O. 1950, c. 384, s. 57, cls. (r-t).
29. prescribing the conditions under which a refund may be made to a person who establishes credit in the Fund under the regulations or who pays money into the Fund under the regulations for the purpose of establishing credit, and prescribing the method of determining the amount of such refund; 1954, c. 93, s. 5 (2).
30. prescribing forms and providing for their use;
31. respecting any right or class thereof that is deemed to be prejudicially affected by the repeal of a predecessor of this Act and the substitution of another Act for such Act;
32. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 384, s. 57, cls. (u-w).

**59.** Where a person has been engaged as a teacher in Ontario and in another part of Canada or the Commonwealth for a period of time which, if the whole period had been served in Ontario would have entitled him to a superannuation allowance under this Act, and if reciprocal arrangements satisfactory to the Lieutenant Governor in Council are made by the authority having jurisdiction in that other part, the Lieutenant Governor in Council may make regulations providing for the payment to such person of a superannuation allowance under this Act, which shall bear the same ratio to the allowance to which he would have been entitled if all of his teaching had been done in Ontario, at the rates of salary he did in fact receive, as the number of his years of teaching in Ontario bears to the total number of his years of teaching. 1953, c. 103, s. 26 (3).

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## CHAPTER 393

**The Teaching Profession Act****1. In this Act,**Interpre-  
tation

- (a) "Board of Governors" means the Board of Governors of the Federation;
- (b) "Department" means the Department of Education;
- (c) "executive" means the executive of the Federation;
- (d) "Federation" means The Ontario Teachers' Federation;
- (e) "member" means a member of the Federation;
- (f) "Minister" means the Minister of Education;
- (g) "regulations" means the regulations made under this Act;
- (h) "teacher" means a person who is legally qualified to teach in a public school, separate school, continuation school, high school, collegiate institute or vocational school and is under contract to teach in such a school but does not include an inspector, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month;
- (i) "board of trustees" means a board of education, board of high school trustees, board of public school trustees or board of separate school trustees. R.S.O. 1950, c. 385, s. 1.

**2.** The federation of teachers known as The Ontario Teachers' Federation is continued as a body corporate. R.S.O. 1950, c. 385, s. 2.

Body  
corporate**3. The objects of the Federation are,**

Objects

- (a) to promote and advance the cause of education;
- (b) to raise the status of the teaching profession;
- (c) to promote and advance the interests of teachers and to secure conditions that will make possible the best professional service;

- (d) to arouse and increase public interest in educational affairs; and
- (e) to co-operate with other teachers' organizations throughout the world having the same or like objects. R.S.O. 1950, c. 385, s. 3.

Membership  
in Federa-  
tion

4.—(1) Every teacher is a member of the Federation except,

1944, c. 64

- (a) a teacher who has withdrawn from membership under subsection 1 or 2 of section 4 of *The Teaching Profession Act, 1944*;
- (b) a teacher who,
  - (i) at any time during World War II was a member of Her Majesty's forces or engaged on special war service designated by the regulations, and
  - (ii) at the time of entering the forces or becoming engaged on such service was a teacher or was training to be a teacher at a provincial normal school or the Ontario College of Education, and
  - (iii) notifies the Minister and the secretary of the Board of Governors of his withdrawal from membership by registered letter posted not later than six months after he ceases to be in the forces or on special war service.

Associate  
members

(2) Every student in a normal school or in the Ontario College of Education is an associate member of the Federation. R.S.O. 1950, c. 385, s. 4.

Board of  
Governors

5.—(1) There shall be a Board of Governors of the Federation which shall be composed of forty members as follows:

- (a) the immediate past president, the president, the first vice-president, the second vice-president and the secretary-treasurer of The Ontario Secondary School Teachers' Federation, The Federation of Women Teachers' Associations of Ontario and The Ontario Public School Men Teachers' Federation, and five representatives of each of such federations, who shall be elected annually at the annual meeting of their federation;
- (b) five representatives of L'Association de l'Enseignement Francais de l'Ontario, who shall be elected annually at the annual meeting of the Association; and

- (c) five representatives of The Ontario English Catholic Teachers' Association, who shall be elected annually at the annual meeting of the Association.

(2) The members of the Board of Governors shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office. <sup>Term of office</sup>

(3) If a vacancy occurs on the Board of Governors, it shall be filled by the executive of the affiliated body that the person who vacated the office represented and the person so named to fill the vacancy shall hold office for the remainder of the term of the person who vacated the office. <sup>Vacancies</sup> R.S.O. 1950, c. 385, s. 5.

**6.**—(1) There shall be an executive of the Federation which shall be composed of nine members as follows: <sup>Executive</sup>

- (a) the immediate past president, the president, the first vice-president, the second vice-president and the third vice-president of the Federation;
- (b) one representative of The Ontario Secondary School Teachers' Federation, one representative of The Federation of Women Teachers' Associations of Ontario and one representative of The Ontario Public School Men Teachers' Federation, who shall be elected annually at the annual meeting of the Board of Governors from among its members; and
- (c) the secretary-treasurer of the Federation.

(2) The members of the executive shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office. <sup>Term of office</sup>

(3) If a vacancy occurs on the executive, it may be filled by the Board of Governors from among its members who represent the affiliated body that the person who vacated the office represented, and the person so named shall hold office for the remainder of the term of the person who vacated the office. <sup>Vacancies</sup> R.S.O. 1950, c. 385, s. 6.

**7.** There shall be a president, a first vice-president, a second vice-president and a third vice-president of the Federation who shall be elected annually at the annual meeting of the Board of Governors from among its members in such a manner that the offices of the immediate past president, president, first vice-president, second vice-president and third vice-president shall represent each of the affiliated bodies. <sup>President and vice-presidents</sup> R.S.O. 1950, c. 385, s. 7.

## Secretary-treasurer

**8.** There shall be a secretary-treasurer of the Federation appointed by the Board of Governors who may be a member of the Board of Governors and who shall receive such remuneration as may be fixed by the Board of Governors. R.S.O. 1950, c. 385, s. 8.

## Functions of executive

**9.** The executive is responsible for carrying on the business of the Federation and may,

- (a) subject to the approval of the Minister, acquire and hold in the name of the Federation such real and personal property as may be necessary for the purposes of the Federation and may alienate, mortgage, lease or otherwise dispose of such property as occasion may require;
- (b) invest the funds of the Federation in any securities in which a trustee is authorized to invest money in his hands under *The Trustee Act*;
- (c) make such grants as it deems advisable to organizations having the same or like objects as the Federation. R.S.O. 1950, c. 385, s. 9.

R.S.O. 1960,  
c. 408

## Conferences

**10.** In the interests of the advancement of education and the improvement of teaching conditions in Ontario, the Board of Governors shall meet annually and confer with the Minister and the senior officials of the Department on matters touching and concerning the objects of the Federation, and the Board of Governors shall at such meeting and may at any other time make such representations and recommendations either of a general nature or which relate to any particular school, teacher or matter as it deems advisable and as are in keeping with the objects of the Federation. R.S.O. 1950, c. 385, s. 10.

## Collection of fees

**11.** The prescribed membership fee shall be deducted by the board of trustees from the salary of each teacher for the month of November or for the first month thereafter in which the teacher begins a term of employment and shall be forwarded to the treasurer of the Federation. R.S.O. 1950, c. 385, s. 11.

## Regulations

**12.** Subject to the approval of the Lieutenant Governor in Council, the Board of Governors may make regulations,

- (a) prescribing a code of ethics for teachers;
- (b) prescribing the fees to be paid by members of the Federation;

- (c) providing for voluntary membership in the Federation of persons who are not members thereof and prescribing the duties, responsibilities and privileges of voluntary members;
  - (d) prescribing the duties, responsibilities and privileges of associate members;
  - (e) providing for the suspension and expulsion of members from the Federation and other disciplinary measures;
  - (f) designating the services and organizations that shall be deemed to be special war services for the purposes of clause *b* of subsection 1 of section 4;
  - (g) providing for the holding of meetings of the Board of Governors and of the executive and prescribing the manner of calling and the notice to be given in respect of such meetings;
  - (h) prescribing the procedure to be followed at meetings of the Board of Governors and of the executive;
  - (i) providing for the payment of necessary expenses to the members of the Board of Governors and the executive;
  - (j) conferring powers upon or extending or restricting the powers of and prescribing the duties of the Board of Governors and of the executive;
  - (k) providing for the appointment of standing and special committees;
  - (l) providing for the establishment of branches of the Federation or of the recognition by the Federation of local bodies, groups or associations of teachers which shall be affiliated with the Federation. R.S.O. 1950, c. 385, s. 12.
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## CHAPTER 394

**The Telephone Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "Commission" means the Ontario Telephone Service Commission;
- (c) "commissioners" means the persons elected by the subscribers of a municipal telephone system for the control and management of the system;
- (d) "initiating municipality" means a municipality that has established a municipal telephone system under this Act or a predecessor of this Act;
- (e) "municipal telephone system" means a telephone system, other than a public utility, established by by-law of a municipality under a predecessor of this Act;
- (f) "plant" means the buildings, works, apparatus and equipment, including vehicles, used in the operation of a telephone system;
- (g) "rate" means any rental or charge for supplying telephone exchange service and all services associated therewith;
- (h) "regulations" means the regulations made under this Act;
- (i) "subscriber", in respect of a municipal telephone system, means a landowner who has signed a petition to the council of a municipality praying for the establishment or extension of a telephone system that is afterwards established or extended pursuant to the petition or upon whose property an annual rate is or may be levied and collected for the purpose of paying the cost of establishing and maintaining the system or the extension or any reconstruction, replacement or alteration of the system or any part thereof, and also means a person who, being a subscriber as defined above, has fully paid all annual rates in respect of the establishment of the system or of its extension and the cost of maintenance during

the period for which debentures have been issued to pay the cost of the establishment or extension and who continues thereafter to take telephone service from the system on the basis of paying such charges therefor as are approved;

- (j) "toll" means any charge, other than a rate, for the transmission of telephone messages. 1960, c. 120, s. 1.

Telephone  
Service  
Commission

**2.—**(1) The body corporate known as the "Ontario Telephone Authority" is continued and shall be known as the "Ontario Telephone Service Commission".

Membership

(2) The Commission shall consist of three or more members appointed by the Lieutenant Governor in Council.

Chairman  
and vice-  
chairman

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one of them as vice-chairman.

Remunera-  
tion

(4) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Quorum

(5) A majority of the members constitutes a quorum. 1960, c. 120, s. 2.

When vice-  
chairman  
may act

**3.—**(1) In the absence of the chairman or in the case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and has all the powers of the chairman, including the power to complete any unfinished matter.

Presumption  
where vice-  
chairman  
has acted

(2) Where the vice-chairman has acted in place of the chairman, it shall be presumed conclusively that he so acted in the absence or disability or vacancy in the office of the chairman. 1960, c. 120, s. 3.

Staff

**4.** The Lieutenant Governor in Council may appoint a secretary and such other officers, clerks and employees as may be necessary for the conduct of the affairs of the Commission. 1960, c. 120, s. 4.

Adminis-  
tration costs

**5.** The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. 1960, c. 120, s. 5.

Jurisdiction  
of  
Commission

**6.—**(1) The Commission has jurisdiction and power to hear and determine all applications made, proceedings instituted and matters brought before it under this Act and, for such purposes, to make such orders, rules and regulations, to give such directions, to issue such certificates and otherwise to do and perform all acts, matters, deeds and things as it deems necessary.



(2) In the exercise of its powers under subsection 1, the Commission has all the powers that may be conferred upon a Commissioner under *The Public Inquiries Act*. Powers of investigation  
R.S.O. 1960,  
c. 323

(3) Every person summoned to attend before the Commission shall, in the discretion of the Commission, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. 1960, c. 120, s. 6. Witness fees

7. The chairman may authorize any one of the members of the Commission to report to the Commission upon any question or matter arising in connection with the business of the Commission and, when so authorized, such member has all the powers of the Commission for the purpose of taking evidence and acquiring information for the purposes of the report and, upon the report being made to the Commission, it may be adopted as the order of the Commission or otherwise dealt with as the Commission deems proper. 1960, c. 120, s. 7. Reference to a member

8. All orders and other documents made or issued by the Commission are effective if signed by the chairman or vice-chairman. 1960, c. 120, s. 8. Signing of orders, etc.

9.—(1) The Commission shall sit at such times and places as the chairman from time to time designates and shall conduct its proceedings in such manner as seems to it most convenient for the speedy and effectual dispatch of its duties. Sittings

(2) The sittings of the Commission may be either private or open to the public, but any complaint made to the Commission shall, upon the application of any party thereto, be heard publicly. Idem

(3) Where the sittings of the Commission are appointed to be held in a municipality in which a court house is situate, the Commission and its members have in all respects the same rights as a judge of the Supreme Court in respect of the use of the court house, or any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. Use of court house

(4) Where the sittings of the Commission are appointed to be held in a municipality in which there is a municipal hall but no court house, the municipality shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for the purpose. 1960, c. 120, s. 9. Use of town hall

10. The Commission may rehear any application and may review, amend or revoke its decisions, orders, directions, Variation of orders, etc.

consents or approvals and may within its jurisdiction review, amend or revoke the decisions, orders, directions, rules or approvals made by the Commission or any predecessor of the Commission. 1960, c. 120, s. 10.

Determina-  
tion of  
disputes

**11.** The Commission has exclusive jurisdiction to hear and determine any differences that arise between two or more telephone systems or municipalities in respect of the establishment, extension, operation or maintenance of a telephone system or in respect of any act, matter or thing required to be done by them or any of them under this Act, and to make such orders in respect thereof as it deems proper. 1960, c. 120, s. 11.

Inquiry as  
to whether  
rates  
sufficient

**12.** The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a telephone system, other than a municipal telephone system, are sufficient to pay the funded debt and interest accruing thereon and the cost of operation and maintenance and a reasonable return on capital investment, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it deems proper. 1960, c. 120, s. 12.

Examina-  
tion of and  
report upon  
telephone  
system

**13.—(1)** The Commission, whenever it appears to be expedient or necessary for the purpose of carrying into effect any of the provisions of this Act or upon any application, complaint or dispute before the Commission or in connection with any matter or thing over which the Commission has jurisdiction, may direct any person to examine and report upon the construction, operation or management of a telephone system, and for that purpose such person may at all reasonable hours enter any building, office or other premises belonging to or connected with the system and examine all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to the system and examine the switchboards, instruments, toll stations and all other property that belongs to or forms a part of the system.

Powers of  
examiner

R.S.O. 1960,  
c. 274

(2) The person directed to make such examination and report has and may exercise any of the powers set out in section 52 of *The Ontario Municipal Board Act*.

Implemen-  
tation of  
report of  
examiner

(3) Upon receiving the report of the person directed to make examination and report, the Commission may adopt the report in whole or in part and may thereupon make such order in respect of the subject-matter of the report as it deems proper. 1960, c. 120, s. 13.

**14.** The Commission may inquire into, hear and determine an application by or on behalf of any person,

Powers of  
Commission  
to hear  
complaints

- (a) complaining that a telephone system has failed to do any act, matter or thing required to be done by it under this Act or the regulations or under a predecessor of this Act or that a system has done or is doing anything contrary to this Act or the regulations;
- (b) complaining that a system is charging rates or tolls in excess of those approved by the Commission;
- (c) requesting the Commission to make any order or give any direction or approval that by law it is authorized to make or give. 1960, c. 120, s. 14.

**15.** The Commission of its own motion may order any person, system or municipality to do forthwith or within any specified time and in the manner directed by the Commission anything that any person, system or municipality is or may be required to do under this Act or the regulations, and the Commission may, by its order, forbid the doing or continuing of anything that is in contravention of this Act or the regulations. 1960, c. 120, s. 15.

Powers of  
Commission  
exercisable  
on its own  
motion

**16.** The Commission may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under and in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved is not open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto. 1960, c. 120, s. 16.

Commission  
may  
approve of  
forms, etc.

**17.—(1)** The Commission may, of its own motion or upon the application of any party to proceedings before the Commission and upon such security being given as it directs, state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Commission, is a question of law.

Stated case

**(2)** The Court of Appeal shall hear and determine the stated case and remit it to the Commission with the opinion of the court thereon. 1960, c. 120, s. 17.

Idem

**18.** The Lieutenant Governor in Council may at any time upon petition of any party, all parties first having been heard, vary or rescind any order or decision of the Commission whether the order or decision was made *inter partes* or otherwise, and any order that the Lieutenant Governor in Council

Rescission  
of orders  
by  
Lieutenant  
Governor  
in Council

makes with respect thereto is binding upon the Commission and all parties. 1960, c. 120, s. 18.

Appeals of  
question of  
jurisdiction  
and law

**19.**—(1) An appeal lies from the Commission to the Court of Appeal upon any question of jurisdiction or upon any question of law, but no such appeal lies unless leave to appeal is obtained from the court within one month of the making of the order or decision sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal.

Notice of  
appeal

(2) Upon such leave being obtained, the Registrar of the Court of Appeal shall set the appeal down for hearing at the next sittings of the court and the party appealing shall, within ten days, give to the parties affected by the appeal, or to the solicitors by whom such parties were represented before the Commission, and to the Commission notice in writing that the case has been so set down and the appeal shall be heard and disposed of by the court as speedily as practicable.

Opinion  
of court

(3) On the hearing of an appeal under this section, the court may draw such inferences as are not inconsistent with the facts expressly found by the Commission and necessary for determining the question of jurisdiction or law, as the case may be, and shall specify its opinion to the Commission and the Commission shall make an order in accordance with such opinion.

Commission  
may be  
heard

(4) The Commission is entitled to be heard by counsel or otherwise upon the argument of any such appeal. 1960, c. 120, s. 19 (1-4).

Commission  
not liable  
for costs

(5) The Commission or any member thereof is not liable for costs in connection with any appeal or application for leave to appeal under this section. 1960, c. 120, s. 19 (6).

Orders of  
Commission  
final and  
binding

**20.** Except as provided in sections 18 and 19, every order and decision of the Commission is final and binding. 1960, c. 120, s. 20.

Orders may  
be general  
or  
particular

**21.** An order of the Commission may be general or particular in its application territorially or as to time or otherwise. 1960, c. 120, s. 21.

R.S.O. 1960,  
c. 349,  
not to  
apply

**22.** *The Regulations Act* does not apply to any order, regulation or by-law made under the authority of this Act. 1960, c. 120, s. 22.

Costs of  
proceedings  
before  
Commission

**23.** The costs of and incidental to any proceedings before the Commission are in the discretion of the Commission, and

the Commission may order by whom and to whom any costs are to be paid. 1960, c. 120, s. 23.

**24.**—(1) The Commission shall, after the close of each calendar year, make an annual report upon the affairs of the Commission to the member of the Executive Council to whom the administration of this Act is assigned, who shall file it with the Provincial Secretary. <sup>Annual report</sup>

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1960, c. 120, s. 24. <sup>Idem</sup>

**25.** Nothing in this Act confers upon the Commission any jurisdiction as to matters that are under *The Power Commission Act* or that otherwise are within the exclusive jurisdiction of The Hydro-Electric Power Commission of Ontario. 1960, c. 120, s. 25. <sup>Act not to affect H.E.P.C. R.S.O. 1960, c. 300</sup>

**26.** The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations, <sup>Regulations</sup>

- (a) to regulate and control the business practices and accounting practices of telephone systems;
- (b) prescribing the forms of accounts, books of accounts and records to be kept by telephone systems;
- (c) to regulate and control the type of construction of plants of telephone systems;
- (d) to regulate and control the maintenance and operating practices of telephone systems;
- (e) prescribing rules of practice and procedure applicable to proceedings before the Commission;
- (f) prescribing fees applicable to proceedings before the Commission and for certified copies of orders and other documents made or issued by the Commission;
- (g) prescribing the form of and the particulars to be contained in tariffs of rates and tolls and the manner and form in which tariffs of rates and tolls shall be published and kept open for public inspection;
- (h) prescribing the form and the particulars to be contained in the annual returns to be made by telephone systems to the Commission;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 120, s. 26.

Establishment and operation of telephone system as public utility

**27.** Any municipality may establish and carry on a telephone system as a public utility and for the purposes of such system may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein, an underground or overhead or partly underground and partly overhead telephone plant and do all things necessary or convenient for the purpose including the issue of debentures to meet the cost of the same. 1960, c. 120, s. 27.

Acquisition of existing systems

**28.** A municipality may, for the purpose of establishing or carrying on a telephone system as a public utility, acquire by purchase or lease or, subject to sections 35 to 86 in that behalf, may expropriate any system in the municipality. 1960, c. 120, s. 28.

Debentures of acquired system to be paid by municipality

**29.** Where a municipal telephone system is acquired by a municipality under section 28, any debentures theretofore issued in respect of the municipal telephone system and then outstanding and unpaid cease to be a charge upon the lands of the respective subscribers or any of them and the debentures as they mature and fall due and the interest upon them become a first charge against the revenues of the system, and, if such revenues are insufficient in any one or more years, they shall be met and paid by a special rate to be imposed by the municipality upon all rateable property in the municipality. 1960, c. 120, s. 29.

Debentures, assent of electors

**30.** No by-law authorizing the issue of debentures and no by-law authorizing the assumption of any outstanding debentures issued in respect of a municipal telephone system may be passed by the council of a municipality in the exercise of the powers conferred by section 27, 28 or 29 until the approval of the Board has been first obtained and such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under *The Municipal Act*. 1960, c. 120, s. 30.

R.S.O. 1960, c. 249

Right of passage

**31.** Where parts of a building in a municipality are owned or occupied by different persons, the municipality may carry wires to any part of such building, and for that purpose may pass over or through or under the property belonging to any owner or in the possession of any tenant or occupant. 1960, c. 120, s. 31.

Parts III and IV of R.S.O. 1960, c. 335, to apply

**32.** Parts III and IV of *The Public Utilities Act* apply *mutatis mutandis* to a municipality establishing and carrying on a telephone system as a public utility, and the expression

"public utility", where it occurs in those Parts, includes a telephone system. 1960, c. 120, s. 32.

**33.**—(1) Where a municipality has heretofore constructed, purchased or acquired or hereafter constructs, purchases or acquires a telephone system under section 27 or 28 or where it has undertaken the construction, purchase or acquisition of such a system and it appears that the cost of the construction, purchase or acquisition has exceeded or will exceed the amount already provided for that purpose or where it is deemed expedient by the council of the municipality to construct an extension or an improvement of the system, the council may, with the approval of the Board, pass a by-law for borrowing such further or other sums as may be necessary to complete, extend or improve the system or for the purchase or acquisition of the system or to meet the cost of any extension or improvement already made to the system. Borrowing money for extension or acquisition

(2) The by-law does not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Board. Where assent of electors not required

(3) Such approval may be given if it is shown to the satisfaction of the Board that the expenditure proposed to be made for any such extension or improvement or for the completion of the system or the purchase or acquisition is necessary and that sufficient revenue or sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon or where it is made to appear to the Board that the net revenue to be derived from the system justifies the construction of such extension or improvement. 1960, c. 120, s. 33. Where approval may be given

**34.** Sections 42 to 44, sections 53 to 56, section 62, sections 80 to 84, section 86, sections 89 to 99 and sections 102 to 115 apply *mutatis mutandis* to a municipality carrying on a telephone system as a public utility. 1960, c. 120, s. 34. Application of other provisions

**35.** A petition signed by not less than ten assessed landowners may be presented to the council of a local municipality praying for the establishment of a municipal telephone system. 1960, c. 120, s. 35. Petition for establishment of system

**36.** A petition signed by one or more assessed landowners may be presented to the council of a local municipality or the commissioners, as the case may be, in which a municipal telephone system has been established praying for an extension of the system so as to serve his or their premises, as the case may be. 1960, c. 120, s. 36. Petition for extension of system

Particulars  
to be stated  
in petition  
and removal  
of names

**37.** A petition under section 35 or 36 shall set forth such particulars as the Commission requires, and a signature after being affixed to the petition shall not be removed therefrom except with the approval of the Commission, but no application for such approval shall be considered by the Commission after the lapse of six months from the date of the passing of the by-law for the establishment of the municipal telephone system or, in the case of a petition for an extension to the system, after the lapse of six months from the date upon which the signature was affixed to the petition. 1960, c. 120, s. 37.

Adding  
signatures  
to petition

**38.** Where the petition for the establishment or extension of a municipal telephone system prays that debentures of the initiating municipality be issued to pay the cost of the work, any additional landowner may, with the permission of the council or the commissioners, as the case may be, at any time before the passage of the debenture by-law, affix his signature to the petition, and thereupon and thereafter the additional landowner has all the rights and is subject to all the obligations of the original signatories to the petition. 1960, c. 120, s. 38.

Petition to  
constitute  
contract

**39.** The petition constitutes a valid and binding contract on the part of each person signing it to repay to the initiating municipality his share of the cost of establishing or extending the municipal telephone system, as the case may be, and operating and maintaining the system. 1960, c. 120, s. 39.

By-law for  
establish-  
ment of  
system

**40.** Upon the receipt of a petition praying for the establishment of a municipal telephone system, the council of the initiating municipality may by by-law, at the expense of the subscribers and subject to such conditions as may be set forth in the by-law, provide for the establishment of the system and for the maintenance and operation of the system. 1960, c. 120, s. 40.

Construc-  
tion of  
extensions

**41.** After the establishment of a municipal telephone system, the initiating municipality may from time to time, upon the receipt of a petition praying for an extension of the system, construct any extension that seems expedient and necessary in order to supply telephone service to the petitioners. 1960, c. 120, s. 41.

Extension  
of system  
to another  
municipality

**42.** The council of the initiating municipality or the commissioners, as the case may be, may from time to time extend the system into another municipality with the consent of the council of such other municipality or, without such



consent, with the approval of the Commission. 1960, c. 120, s. 42.

**43.** Subject to section 101, the council of the initiating municipality or the commissioners, as the case may be, may, with the consent of the Commission, extend the system into territory without municipal organization, and the part of such territory into which the system is extended, to be defined by the Commission, shall, for the purposes of this Act, be deemed to be annexed to the initiating municipality, and the council and officers thereof shall levy and collect all rates and tolls under this Act and do all acts and perform all duties and are subject to the same liabilities in respect of such part as, for the purposes of this Act, they may do, perform and are subject to with respect to the initiating municipality. 1960, c. 120, s. 43.

**44.**—(1) The initiating municipality, before proceeding to establish a system, shall furnish to the Commission a certified copy of the by-law providing for the establishment of the system, together with such plans, particulars of the cost of the work and such other information as the Commission requires, and no debt shall be incurred for the construction of the system or for the purchase of material to be used in the construction of its plant until the Board with the consent of the Commission has approved the by-law.

(2) The by-laws may provide in general terms for the making of extensions to the system from time to time thereafter and, upon the receipt of a petition for an extension, the initiating municipality may from time to time construct the extension, and, if any such extension requires the issue of debentures, the by-law authorizing the issue shall recite the making of the extension and shall adopt and confirm the same. 1960, c. 120, s. 44.

**45.** The council of the initiating municipality or the commissioners, as the case may be, shall, with the approval of the Commission, determine the location of any exchange or switchboard of the system and any relocation of the same. 1960, c. 120, s. 45.

**46.** A municipal telephone system established or extended is vested in the initiating municipality in trust for the benefit of the subscribers, and such municipality is liable for all the obligations of the system and has and may exercise all or any of the powers conferred on a municipality by sections 27, 28 and 31. 1960, c. 120, s. 46.

Sale of  
system  
or part

**47.—(1)** Subject to the approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and subject to the approval of the Commission, the council of an initiating municipality in which a municipal telephone system is vested may by by-law provide for the sale or other disposition of the whole or any part of the system.

Approval  
not required

(2) The Commission may by order dispense with the approval of the subscribers to the sale or other disposition of part of a system that, in the opinion of the Commission, is not a substantial part of the system.

Use of  
proceeds to  
discharge  
debts

(3) The proceeds of the sale or other disposition shall be applied and used in payment of the outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system.

Where  
deficiency  
occurs

(4) Where the assets of the system and the proceeds of the sale or other disposition of the whole or the part of the system are not sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due in equal shares from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by the subscribers under this Act.

Disposition  
of surplus

(5) The proceeds of the sale or other disposition not required for the purposes mentioned in subsection 3 shall,

- (a) in the case of a sale or other disposition of part only of the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and
- (b) in the case of a sale or other disposition of the whole of the system, belong to the subscribers and be distributed among them in such manner and on such basis, having regard to their separate interests, as the Commission directs.

Where sub-  
scribers are  
unknown

(6) Where from absence or loss of records or other cause the council of the initiating municipality is unable to ascertain who the subscribers are and is therefore unable to obtain their approval to a sale or other disposition of the whole or a part of the system, the council, with the approval of the Commission upon proof of the fact and upon proof that the assets of the system and the proceeds of the sale or other disposition of the whole or part of the system will be sufficient

to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, may authorize the sale or other disposition notwithstanding the absence of such approval, and the proceeds of the sale or other disposition not required for the purposes mentioned in subsection 2 shall,

- (a) in the case of a sale or other disposition of part only of the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and
- (b) in the case of a sale or other disposition of the whole of the system, be held, applied, used, distributed and disposed of in accordance with the directions of the council or the commissioners, as the case may be, and the approval of the Commission. 1960, c. 120, s. 47.

**48.**—(1) Where the subscribers or a majority of them, in a petition for the establishment or extension of the system, pray that the payment of the cost of the work be extended over a period not exceeding twenty years and that debentures of the initiating municipality be issued to pay the cost of the work, the council of the initiating municipality in the by-law providing for the establishment or extension of the system, or in a subsequent by-law, may provide for the issue of debentures payable within a period not exceeding twenty years from the date of the issue thereof and that the proceeds of the debentures shall be applied in payment of the cost of establishing or extending the system, as the case may be, and for levying a special rate upon the property of the subscribers sufficient to discharge the debt so incurred in equal annual instalments of principal and interest.

(2) The debentures shall be issued on the credit of the initiating municipality, and it is not necessary that the by-law authorizing their issue be submitted for the assent of the electors, but no such by-law shall be passed for any of the purposes of this section until the approval of the Board has first been obtained. 1960, c. 120, s. 48.

**49.** The initiating municipality may, subject to subsection 1 of section 44 and subsection 2 of section 48, agree with any person for temporary advances to meet the cost of the work until the completion thereof and may then pass the necessary by-law authorizing the issue of debentures out of the proceeds of which the temporary advances shall be paid, but the by-law for the issue of debentures shall be passed not later than two

years after the passing of the by-law for the establishment or extension of the system, as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law authorizing the issue of the debentures, but the Board may extend beyond two years the period within which the by-law for the issuing of debentures may be passed and may extend beyond twelve months the period within which the debentures may be issued, and such extension of time may be granted although the application therefor is not made until after the expiration of such period of two years or twelve months, and in such case the by-law may be passed or the debentures issued within the extended time. 1960, c. 120, s. 49.

Reconstruction, replacement or alteration of system

**50.**—(1) Where in the opinion of the council of the initiating municipality or the commissioners, as the case may be, it is necessary or expedient to reconstruct, replace or alter the system or any part thereof and to issue debentures of the initiating municipality to meet the cost thereof, the council of the initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and the prior approval of the Board, pass a by-law authorizing the doing of the work and the issuing of debentures for that purpose, and it is not necessary that the by-law be submitted for the assent of the electors. 1960, c. 120, s. 50 (1), *amended*.

How cost paid

(2) The Board shall determine the period within which the debentures to be issued shall be made payable and the landowners who shall defray the cost of such reconstruction, replacement or alteration, and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

Provisions of Act to apply

(3) The provisions of this Act as to debentures apply to debentures issued under this section. 1960, c. 120, s. 50 (2, 3).

Extensions for persons not assessed as land-owners

**51.** The initiating municipality may, with the approval of the subscribers and with the prior approval of the Board and without obtaining the assent of the electors, pass by-laws authorizing the issue of debentures to meet the cost of making an extension or extensions to the system for the purpose of furnishing telephone service to persons who are not landowners but, before approving of any such by-law, the Board shall be satisfied that such extension or extensions is or are necessary and that a sufficient additional revenue will be derived therefrom to meet the annual payments of principal and interest in respect of the debt created by the issue of such debentures or that the net revenue derived from the system

justifies the construction of such extension or extensions. 1960, c. 120, s. 51.

**52.** Where an initiating municipality has been ordered by the Board or is ordered by the Commission to construct works under this Act, such works shall be deemed to be an extension of the system of such municipality and the council of the initiating municipality has and may exercise in respect of such works the like powers as are vested in the council by this Act in respect of the construction of an extension of a system and the issue of debentures to meet the cost thereof, and such powers may be exercised without a petition from the subscribers to the system or any of them. 1960, c. 120, s. 52.

**53.** An initiating municipality may, with the consent of the Commission and the approval of the Board, by agreement with the owner acquire by purchase all or any part of any existing telephone system in the municipality or any part of such system in another municipality with the consent of the council of such other municipality and, failing such consent, with the approval of the Commission. 1960, c. 120, s. 53.

**54.—(1)** For the establishment or extension of a telephone system or to avoid duplication of systems or any part thereof, an initiating municipality may offer to purchase at a fixed price a telephone system or any part thereof, and, if the owner does not accept the price so offered within one month from the date of the offer, the initiating municipality may, with the consent of the Commission and the approval of the Board, expropriate the system or the part thereof that it offered to purchase and the compensation to be made upon such expropriation shall be determined by the Commission.

**(2)** In fixing the price to be offered or the compensation to be made where part only of a system is proposed to be purchased or is expropriated, there shall be included in the price or compensation, as the case may be, a sum sufficient to compensate the owner of the system for any damage directly resulting from the severance. 1960, c. 120, s. 54.

**55.** Where a municipality owning and operating or intending to own and operate a telephone system has taken proceedings under this Act to acquire a part of the system of a municipality operating in the first-named municipality or in an adjoining municipality and the parties are unable to agree upon the price to be paid therefor, the Commission may prohibit further proceedings or may approve the acquisition

and settle the terms and conditions thereof including the price to be paid and all other matters proper to be taken into consideration. 1960, c. 120, s. 55.

Powers of  
council to  
borrow  
money and  
to issue  
debentures

**56.** Where the council of an initiating municipality acquires by purchase or expropriation an existing telephone system or part thereof, the powers vested by this Act in the council of the initiating municipality as to borrowing by way of temporary advances and in respect of the issue of debentures for the establishment or extension of a system may be exercised by the council of the initiating municipality for the purpose of defraying the cost of such purchase. 1960, c. 120, s. 56.

Liability  
of  
subscribers

**57.** The cost of establishing a municipal telephone system or of an extension thereto shall be defrayed by the subscribers whose signatures are affixed to the petition for such establishment or extension in equal proportions or in such other proportions as are fixed by the council of the initiating municipality with the approval of the Commission, and, in case of default in payment by any subscriber of the amount so fixed, it may be collected as an ordinary debt by action against the person liable therefor or may be added to the collector's roll as taxes due from him and may be collected in the same manner as other taxes. 1960, c. 120, s. 57.

Special rate  
a charge  
on land

**58.—(1)** Where the subscribers have prayed that debentures of the initiating municipality be issued to pay the cost of the work, the special rates assessed against the land of a subscriber are a charge upon the land designated by the subscriber in the petition for the establishment or extension of a system and being land owned by the subscriber when he signed the petition, and shall, notwithstanding a change in the ownership of the land, continue to be a charge thereon until such rates have been fully paid, and such rates may, as they become payable, be collected as an ordinary debt by action against the person liable therefor or may be placed upon the collector's roll against the land as taxes due from the owner of the land and may be collected in the same manner as other taxes, and this section applies to all such rates heretofore or hereafter assessed against any lands under this Act or any predecessor of this Act.

Commuta-  
tion of  
special  
rates

**(2)** Where land is liable to be specially assessed to meet the cost of the work, any subscriber may commute, for a payment in cash, the special rates assessable against his land forthwith after the actual cost of the work and the proportion of the cost payable by him have been ascertained. 1960, c. 120, s. 58.

**59.**—(1) The cost of maintenance of a municipal telephone system shall be defrayed by the subscribers in equal proportions or in such other proportions as are fixed by the council of the initiating municipality and approved by the Commission and is a charge on the lands of the subscribers in the same proportion, and may be collected in the same manner and with the same remedies, as the cost of the establishment or extension of a system or as any special rate assessed against the land of a subscriber in respect of such cost. Cost of maintenance

(2) Any tolls or moneys paid by the initiating municipality to any other system for telephone service furnished by such system to any subscriber of the initiating municipality are a charge upon the land of the subscriber and may be collected by the initiating municipality in the same manner and by the same remedies as the cost of the maintenance of a system. Collections of tolls paid to other systems for subscribers  
1960, c. 120, s. 59.

**60.**—(1) Where there are no outstanding debentures of a municipal telephone system, a subscriber may be released and discharged from all liability in respect of the system upon application to the Commission. Release of subscribers from liability

(2) Where debentures of a municipal telephone system are outstanding, a subscriber who has fully paid his share of all instalments of principal and interest due or to become due under the debenture by-law, together with all other charges payable by him in respect of the system, may be released and discharged from all liability in respect of the system upon application to the Commission. Idem

(3) A release from liability under subsection 1 or 2 does not discharge the subscriber from any liability that may arise under any contract made for telephone service. Idem  
1960, c. 120, s. 60.

**61.**—(1) The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a municipal telephone system are sufficient to pay the cost of operation and maintenance of the system and the instalments of principal and interest on any outstanding debentures, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it deems proper. Inquiry as to sufficiency of rates

(2) Where the revenues of a municipal telephone system are insufficient in any year to meet the cost of operation and maintenance of the system and the instalments of principal and interest falling due in such year on account of any outstanding debentures of the initiating municipality issued for the telephone system, the deficiency shall be paid out of the How deficiency made up

general funds of the initiating municipality and the amount so paid constitutes a debt due from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by subscribers under this Act. 1960, c. 120, s. 61.

Validity  
of rate

**62.** Any question arising as to the validity of any special rate levied under this Act shall be determined by the Commission on an application to it for that purpose. 1960, c. 120, s. 62.

Prescribing  
terms of  
connection

**63.** The council of the initiating municipality or the commissioners, as the case may be, may prescribe the terms on which a person not being a subscriber may have his premises connected with the system and the rate at which he may receive telephone service, and any such rate that heretofore has been approved by the Board or may hereafter be approved by the Commission may be collected in the same manner and with the same remedies as a rate due and unpaid by a subscriber, but such rate does not become a charge against the land. 1960, c. 120, s. 63.

Council to  
manage  
system

**64.** Until the control and management of a municipal telephone system is placed under commissioners, the system is under the control and management of the council of the initiating municipality. 1960, c. 120, s. 64.

Petition for  
manage-  
ment by  
commis-  
sioners

**65.—(1)** Upon the petition of a majority of the subscribers, the council of the initiating municipality shall place the telephone system under the control and management of commissioners to be designated "The Commissioners for the Telephone System of the Municipality of.....", a majority of whom may exercise all the powers of the commissioners.

Number of  
commis-  
sioners

(2) Where the system is in the initiating municipality only, there shall be three or five commissioners and, where the system extends into one or more other municipalities, there shall be an odd number of commissioners, not less than three.

Idem

(3) Subject to subsection 2, the number of commissioners first elected shall be as specified in the petition.

Increase or  
decrease in  
number of  
commis-  
sioners

(4) Subject to subsection 2, the commissioners may by by-law increase or decrease the number of commissioners, but no such by-law shall come into force until confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers, and if so confirmed such by-law shall not be amended or repealed until two annual elections have been held under it. 1960, c. 120, s. 65.



**66.** Except as authorized under clause *d* of subsection 1 of section 71, the commissioners shall be elected each year at the annual general meeting of the subscribers or at a general meeting called for the purpose, and the commissioners shall hold office until their successors are elected. 1960, c. 120, s. 66.

**67.**—(1) No person is eligible for election as a commissioner unless he is a subscriber to the municipal telephone system. Election of commissioners

(2) No assessor, collector, treasurer, clerk, auditor or member, other than the head, of the council of a municipality is eligible to be elected a commissioner. 1960, c. 120, s. 67. Disqualification

**68.** Where a commissioner resigns, dies or becomes incapacitated, the council of the initiating municipality shall immediately appoint a successor who shall hold office for the remainder of the term for which his predecessor was elected or appointed. 1960, c. 120, s. 68. Vacancies

**69.**—(1) Upon the election of the commissioners, the control and management of the municipal telephone system are vested in the commissioners and all the provisions of this Act relating to the initiating municipality and the council thereof in respect of the system, except in so far as they or any of them are by this Act expressly excepted, are applicable to the commissioners. Powers of commissioners

(2) The election of the commissioners does not affect the ownership of the system nor the authority and duty of the initiating municipality to provide from time to time all moneys required for the establishment and maintenance of the system and any extension thereof, nor the right of the initiating municipality to levy and collect all moneys and special rates that may be due and owing from time to time by the subscribers. 1960, c. 120, s. 69. Ownership of system and duties of initiating municipality

**70.** The commissioners may require the secretary or any other officer of the municipal telephone system to give such security as they require for the faithful performance of his duties and for the accounting for and paying over of all moneys that come into his possession or control. 1960, c. 120, s. 70. Security to be given by secretary, etc.

**71.**—(1) The commissioners may pass by-laws to provide for and regulate, By-laws

- (a) the time and place at which meetings of subscribers shall be held and the manner of calling and the procedure at meetings;

- (b) the manner of election, duties and remuneration of the commissioners;
- (c) the control and management of the system;
- (d) the term of office of the commissioners by extending the term to three years so that at the first election of commissioners for a term of three years one or more of them shall hold office for a term of one year only, one or more of them for a term of two years and the remaining one or more for a term of three years,

but such by-laws shall not come into force until approved by the Commission and confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers.

Remuneration of commissioners

(2) A by-law under clause *b* of subsection 1 providing for and regulating the remuneration of the commissioners does not require the approval of the Department of Municipal Affairs under section 407 of *The Municipal Act*. 1960, c. 120, s. 71.

R.S.O. 1960, c. 249

Assumption of control by council of system operated by commissioners

**72.** Upon the petition of a majority of the subscribers of a municipal telephone system praying that the council of the initiating municipality take over the control and management of the system, the council shall pass a by-law for that purpose, and thereupon the commissioners shall hand over to the council, or some official designated by it, all the property of the system, including all moneys, vouchers, books, papers, documents and memoranda relating to the system, and thereafter the control and management of the system is vested in the initiating municipality and the council thereof. 1960, c. 120, s. 72.

Annual meeting

**73.** Every municipal telephone system shall hold a general meeting of its subscribers in each year not later than the 1st day of April or at such time later in each year as is approved by the Commission. 1960, c. 120, s. 73.

Financial statement to be sent to subscribers

**74.—(1)** Not less than ten days before the day fixed for holding the annual general meeting, a financial statement shall be sent by first-class prepaid mail or delivered to each subscriber, to each member of the council of the initiating municipality and to the Commission containing,

- (a) a balance sheet showing in sufficient detail the assets and liabilities of the system as of the 31st day of December last past;

- (b) a statement of the income and expenditure of the system for the financial year ending on the 31st day of December last past;
  - (c) a copy of the report of the auditor or auditors for the year ending on the 31st day of December last past;
  - (d) such other information respecting the system as the by-law requires or the Commission prescribes.
- (2) The financial statement mentioned in subsection 1 shall be submitted to the subscribers at the annual general meeting. Statement to be submitted to meeting  
1960, c. 120, s. 74.

**75.**—(1) In default of other express provision in the by-laws of the system, notice of the time and place of holding any general meeting of the subscribers shall be given at least ten days before the meeting by first-class prepaid mail or by delivery to each subscriber and to each member of the council of the initiating municipality. Notice

(2) Notices calling a general meeting of the subscribers and the financial statement shall be sent by the commissioners or by their secretary or other officer and, where the system is under the control and management of the council, by the clerk of the initiating municipality. Sending notices

(3) The notice calling a general meeting of the subscribers shall state the business that is to be transacted at it. Business to be stated  
1960, c. 120, s. 75.

**76.**—(1) Upon receipt of a requisition in writing, signed by not less than one-tenth of the subscribers, setting forth the objects of the proposed meeting, the commissioners, by their secretary or other officer or, where the system is under the control and management of the council, the clerk of the initiating municipality shall forthwith call a general meeting of the subscribers for the transaction of the business mentioned in the requisition. General meeting called on requisition

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was sent or delivered to the chairman or secretary of the commissioners or to the clerk of the initiating municipality, as the case may be, one-tenth of the subscribers, whether they signed the requisition or not, may themselves, by notice as provided in section 75, call a general meeting of the subscribers for the transaction of the business. General meeting called by subscribers  
1960, c. 120, s. 76.

**77.** The council of the initiating municipality or the commissioners, as the case may be, may of their own motion General meeting called by council, etc.

call a general meeting of the subscribers for the transaction of any business. 1960, c. 120, s. 77.

Who may  
vote at  
general  
meeting

**78.** No person is entitled to vote at a general meeting of a municipal telephone system unless he is a subscriber to the system, but any member of the council of the initiating municipality may attend any general meeting and take part in the deliberations thereat, but shall not vote unless he is a subscriber. 1960, c. 120, s. 78.

Quorum

**79.**—(1) The presence in person of not fewer than five subscribers representing in person or by proxy at least one-tenth of all the subscribers is necessary to constitute a quorum at a general meeting of the subscribers of a municipal telephone system, and the instrument appointing a proxy shall be in writing under the hand of the appointer or, if such appointer is a corporation, under its seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a subscriber.

Quorum  
not  
required

(2) Where a quorum is not present one hour after the time a general meeting has been called, the meeting shall be adjourned for one week at the same time and place and those subscribers present at the second meeting constitute a quorum. 1960, c. 120, s. 79.

Duties of  
municipal  
officials of  
initiating  
municipality

**80.** Where a municipal telephone system is under the control and management of the initiating municipality, the several officials of the municipality in their respective offices shall do and perform all acts, matters and things herein on their part respectively directed to be done and performed in respect of the system, and, where the system is under the control and management of commissioners, the several officials respectively shall do and perform the acts, matters and things in like manner unless relieved therefrom by the commissioners. 1960, c. 120, s. 80.

Duties  
where  
system  
extended  
to another  
municipality

**81.**—(1) Where a municipal telephone system extends into a municipality other than the initiating municipality, the clerk of the initiating municipality shall,

- (a) forthwith after its passing, transmit to the clerk of the other municipality a certified copy of every debenture by-law charging with a rate the premises of any subscriber situated in the other municipality; and
- (b) when so required by the initiating municipality or the commissioners, as the case may be, transmit to the clerk of the other municipality, on or before such

date as the council of the other municipality by by-law prescribes, the amount in respect of the debentures and the cost of maintenance payable by each such subscriber.

(2) The amount payable by each subscriber shall be placed on the collector's roll and shall be collected in the same manner as municipal taxes and paid over to the treasurer of the initiating municipality at the end of each month. 1960, c. 120, s. 81.

**82.** The initiating municipality or the commissioners, as the case may be, shall pay to the clerk, treasurer and collector of the initiating municipality and to the clerk, treasurer and collector of any other municipality into which its system extends a reasonable remuneration for the services performed by them or any of them under this Act, and such remuneration shall be fixed by agreement between the official performing the service and the council of the municipality or the commissioners, as the case may be, and, failing agreement, by the Commission on an application to it for that purpose. 1960, c. 120, s. 82.

**83.** The clerk, treasurer or collector of any municipality failing or neglecting to do and perform any act, matter or thing required of him by this Act or by order of the Commission directed to be done and performed by them respectively is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1960, c. 120, s. 83.

**84.—(1)** The council of the initiating municipality or the commissioners, as the case may be, shall cause proper books of account to be kept containing full and true statements of,

- (a) the financial transactions of the system;
- (b) the assets of the system;
- (c) the sums of money received and expended in respect of the system and the matters in respect of which such receipt and expenditure took place;
- (d) the credits and liabilities of the system;
- (e) the name of every subscriber and the location of his subscribed property,

and a book or books containing minutes of all the proceedings and votes at meetings of the council or commissioners and of subscribers verified by the signature of the head of the council, the chairman of the commissioners or other presiding officer, as the case may be.

Deposit and  
withdrawal  
of moneys

(2) All moneys received in respect of the system shall be deposited forthwith in a chartered bank in an account in the name of the system and all expenditures in respect of the system shall be paid by cheque drawn upon such account signed by the head of the council and treasurer of the initiating municipality or such other two signing officers as the council appoints or, where the system is under the control and management of commissioners, by the chairman and treasurer or such other two signing officers as the commissioners appoint. 1960, c. 120, s. 84.

Audit of  
accounts

**85.** The accounts and transactions of a municipal telephone system shall be audited at least once in every year by the municipal auditor or auditors appointed and compensated as provided in section 228 of *The Municipal Act*. 1960, c. 120, s. 85.

Limitation  
of actions

**86.** No action shall be brought against a municipal corporation or any of its officers, agents or servants for anything done or omitted in the construction, operation or maintenance of a municipal telephone system or in the exercise of any of the powers conferred by this Act after the lapse of six months from the time when the cause of action arose. 1960, c. 120, s. 86.

Partnerships  
and un-  
incorporated  
associations  
to be  
incorporated

**87.** Every unincorporated association or partnership of persons, comprising five or more members or partners, owning or proposing to own a telephone system and using or proposing to use a public highway or highways for the purpose of furnishing telephone service to the members or partners of such unincorporated association or partnership, or any of them, or to other persons, shall secure letters patent creating them a corporation with share capital for the purpose of carrying on the business of a telephone company. 1960, c. 120, s. 87.

By-laws  
to be  
approved  
by  
Commission  
R.S.O. 1960,  
c. 71

**88.** No by-law, and no special resolution as defined in *The Corporations Act* of an incorporated telephone company hereafter passed has any force or effect until approved by the Commission and every such company shall cause such by-laws and special resolutions to be kept available for inspection at the head office of the company. 1960, c. 120, s. 88.

Proper  
service  
to be given

**89.—(1)** Every telephone system shall furnish continuous telephone service that adequately and efficiently meets the needs of the public in the territory in which it operates.

Complaints

(2) Any person who is not satisfied with the service rendered may lodge a complaint with the Commission with respect thereto and the Commission may order the system com-

plained against to take such action as the Commission considers necessary. 1960, c. 120, s. 89.

**90.** The Commission may make such orders for the construction and maintenance of a plant as it from time to time determines to be necessary in order to ensure adequate and efficient telephone service to the public and for the protection of life and property. 1960, c. 120, s. 90.

Orders to  
ensure  
proper  
service

**91.** Every telephone system shall own and maintain all equipment, except run-off poles on private property, operated in connection with the system, unless otherwise consented to by the Commission. 1960, c. 120, s. 91.

Equipment  
ownership

**92.** No telephone system shall erect poles upon or along or adjacent to and parallel with any part of a highway upon or along which the pole leads of another system are already erected, or otherwise by means of its plant or any part thereof duplicate the plant of or compete with any other system that furnishes telephone service in the same locality in which the first-mentioned system proposes to furnish such service, unless by consent of the Commission. 1960, c. 120, s. 92.

Duplication  
of pole  
leads on  
highways

**93.** Where in the opinion of the Commission the convenience of persons desiring telephone service requires the extension of a telephone system upon or along a highway, upon or along which there is already a telephone pole lead, the Commission may make such order as it deems expedient for authorizing the extension and consolidating the pole leads upon or along the highway. 1960, c. 120, s. 93.

Use of pole  
leads by  
two or  
more  
systems

**94.** Notwithstanding anything in any Act, where a person makes application to a telephone system for telephone service, the system shall furnish such service upon terms to be agreed upon and, failing agreement, upon such terms and conditions as are ordered by the Commission. 1960, c. 120, s. 94.

Telephone  
service to  
be furnished  
on request

**95.** Where it is necessary for the purpose of carrying into effect an order of the Commission that a telephone system should erect poles, cables, ducts or wires upon or along any road or highway under the jurisdiction of a town, village, county or township, the system may, notwithstanding any limitations in any letters patent or otherwise, erect the poles, cables, ducts and wires upon or along the road or highway upon such terms and conditions as are agreed upon between the council of the municipality and the system, and, if the council and the system are unable to agree, then upon such terms and conditions as the Commission prescribes. 1960, c. 120, s. 95.

Erection of  
poles on  
highways

Agreements  
for  
connection,  
joint  
operation,  
etc.

**96.** A telephone system may enter into an agreement with any other system, whether the latter system is under the jurisdiction of the Legislature or not, providing for the connection, intercommunication, joint operation or reciprocal use of the respective lines and other plant controlled, owned or operated by the systems and for the transmission of business between the systems, and for the interchange of messages passing to, from or over their lines and other plant, and for the apportionment of tolls, commissions and expenditures and the division of receipts and profits and generally for the regulation, management and operation of their lines and other plant, but no such agreement has any validity or effect until approved by the Commission. 1960, c. 120, s. 96.

Commission  
may order  
connection,  
joint  
operations,  
etc.

**97.** Where the lines or other parts of the plant of two or more telephone systems are situated in such proximity to each other as to make it expedient in the public interest that they be connected in order that there be intercommunication between them or joint operation or reciprocal use of them or that the lines or other plant be used jointly by the systems for the transmission of messages and either or any of the systems fail or refuse to enter into an agreement with the other or others, the Commission shall order,

- (a) that such connection be made;
- (b) by whom and in what manner any line or works necessary for the purpose of making the connection shall be constructed and maintained;
- (c) how the cost incurred in constructing and maintaining it or them shall be borne; and
- (d) upon such terms and conditions as the Commission prescribes, that there shall be such intercommunication between or joint operation or reciprocal use of, and such transmission of messages by or over, the lines or other plant, including any connecting lines or works, as the Commission prescribes. 1960, c. 120, s. 97.

Intercom-  
munication  
by systems

**98.—(1)** Where the lines of one or more telephone systems terminate on the switchboard of another system, the other system shall furnish all reasonable and proper facilities for the interchange of conversations between the systems.

What  
facilities  
to be used

**(2)** The facilities to be so afforded shall include the providing of suitable switching facilities to connect the lines of the systems and the permitting of conversations to be transmitted without unreasonable delay over the lines so connected.



(3) The terms upon which the facilities for the interchange <sup>Terms</sup> of conversation between two or more systems to be afforded under this section shall be fixed by agreements between the systems concerned, subject to the approval of the Commission, and, failing such agreement, they shall be fixed by the Commission. 1960, c. 120, s. 98.

**99.** Where the lines or other parts of the plant of a telephone system under the jurisdiction of the Legislature and the lines or other parts of the plant of a system under the jurisdiction of the Parliament of Canada are situate in such proximity to each other as to make it practicable for the lines or other parts of the plant to be so connected as to provide direct communication whenever required between any telephone on the one system and any telephone on the other system, either of the systems or any municipal corporation or other public body or any person interested may file with the Commission and with the Board of Transport Commissioners for Canada an application for an order that such connection be made together with evidence of service of the application upon the systems interested or affected and clauses *b, c, d* and *e* of subsection 1 of section 131 of *The Railways Act* apply *mutatis* <sup>Intercommunication between federal and provincial systems</sup> *mutandis* to every such application. 1960, c. 120, s. 99. <sup>R.S.O. 1950, c. 331</sup>

**100.—(1)** No telephone system shall place in, upon, over <sup>Use of highways</sup> or under any highway, lane or square under the jurisdiction of the council of a municipality any poles, cables, ducts, wires or other structures or equipment without having acquired the right so to do.

(2) Notwithstanding the provisions of any other Act and <sup>Grants of right to use highways</sup> with the approval of the Commission, the council of any municipality may pass a by-law or by-laws for granting to a system, upon such terms and conditions as are deemed expedient, the right to use any highway, square or lane under its jurisdiction for placing in, upon, over or under the same poles, cables, ducts, wires or other structures or equipment, but no such by-law comes into force until approved by the Commission.

(3) Where the council and the system are unable to agree <sup>Commission to determine differences as to use of highways</sup> as to the terms and conditions upon which such right is to be granted, the council or the system may refer the matters in dispute to the Commission in which case the Commission, after hearing the evidence of all persons interested, may prescribe the terms and conditions, and thereupon the terms and conditions are binding upon the municipality and the system.

(4) Where a system fails to comply with any provision of <sup>Termination of right</sup> this Act or the regulations or any order of the Commission,

the Commission may terminate any right conferred upon the system under this section, in which case the by-law granting the right shall be deemed to be repealed.

Effect of  
termination  
of right

(5) Upon the termination of any right conferred upon a system under this section in accordance with the terms and conditions of the by-law granting the right or in accordance with an order of the Commission, the council may, with the approval of the Commission, order the system to remove its poles, cables, ducts, wires and other structures and equipment from the highways, squares and lanes under the jurisdiction of the council and, upon failing to comply with the order within ninety days, the council may remove the poles, cables, ducts, wires and other structures and equipment and charge the cost thereof to the system. 1960, c. 120, s. 100.

Right to  
use  
highways  
in  
unorganized  
territory

**101.** The right to use, for the purposes of section 100, any highway or road allowance situated in territory without municipal organization may be granted by the Minister of Lands and Forests upon such terms and conditions and subject to such rentals or charges as he determines. 1960, c. 120, s. 101.

Agreements  
increasing  
cost of  
service

**102.**—(1) A telephone system shall not enter into an agreement with any other system that may have the effect of increasing the cost of telephone service to the public until the proposed agreement has been submitted to and approved by the Commission.

Application  
of section

(2) This section does not apply to an agreement in relation to a matter to which section 103 applies. 1960, c. 120, s. 102.

Sales or  
transfers of  
systems,  
etc.

**103.** No telephone system and no part of a system or controlling interest in a system shall be sold or disposed of and no system shall be amalgamated with another system and no system shall enter into an agreement that in effect transfers its ownership or control to another system, whether the other system is under the jurisdiction of the Legislature or not, until the Commission has approved the sale or other disposition, amalgamation or agreement. 1960, c. 120, s. 103.

Termination  
of powers  
of system

**104.** The Commission may by its order terminate any of the rights, powers and privileges possessed by or conferred upon any telephone system under this Act, if the system contravenes section 102 or 103, and may by its order prohibit the system from carrying on business under this Act. 1960, c. 120, s. 104.

Tariffs and  
tolls to be  
filed and  
approved

**105.** Every telephone system shall file with the Commission its tariff of rates and tolls in such form and containing

such particulars as the Commission requires and no system or municipality shall charge or levy any rate or toll that has not been filed with and approved by the Commission. 1960, c. 120, s. 105.

**106.** There shall be no discrimination by any telephone system in favour of or against any person furnished with telephone service by the system by way of reduction or increase in any rate or toll, and no system shall without the approval of the Commission furnish free telephone service to any person. 1960, c. 120, s. 106.

Prohibition  
against dis-  
crimination  
as to tolls,  
free service

**107.** Every officer of a telephone system who wilfully authorizes or permits any contravention of section 105 or 106 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence. 1960, c. 120, s. 107.

Offence

**108.**—(1) Every telephone system shall provide and maintain a proper and adequate depreciation fund and for that purpose shall set aside each year a proportion of its earnings and the fund so provided shall, unless otherwise authorized by the Commission, be applied exclusively to meet the cost of the renewal and replacement of such part of the plant of the system as may be rendered necessary by age, wear and tear, obsolescence, damage by storm or other contingency and the Commission may require the system to make such changes in the rate of depreciation from time to time as the Commission considers expedient.

Depreciation  
fund

(2) The moneys carried to the credit of the depreciation fund shall, unless the Commission otherwise directs, be deposited in a chartered bank at interest and,

Deposit,  
investment  
and  
application  
of fund

(a) may be invested in such securities as trustees may invest in under *The Trustee Act*; or

R.S.O. 1960,  
c. 408

(b) may, with the approval of the Commission, be expended in new construction or extensions or additions to the system.

(3) All earnings accruing from any part of the depreciation fund deposited or invested as provided in subsection 2 shall from time to time be carried to the credit of the depreciation fund. 1960, c. 120, s. 108.

Interest

**109.**—(1) A telephone system shall not issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof until it has obtained from the Commission an order authorizing the issue and the amount thereof and stating the purposes to which

Approval of  
issue of  
stock, bonds,  
notes, etc.

the issue or proceeds thereof are to be applied and that in the opinion of the Commission the money, property or labour to be procured or paid for by the issue of the stock, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order.

Offence

(2) Every officer of a system who wilfully authorizes or permits any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence. 1960, c. 120, s. 109.

Prohibition  
against  
interference  
with  
instruments

**110.**—(1) Every person who uses or interferes with or permits to be used or interfered with any telephone instrument, wiring or other equipment so as to injure or damage it or prevent the proper use of the circuit to which the telephone instrument, wiring or other equipment is connected is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence.

Idem

(2) Every officer of a telephone system who wilfully authorizes or permits any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each offence. 1960, c. 120, s. 110.

Employees  
divulging  
conversations

**111.** Every operator or other person in the employ of a telephone system who divulges the purport or substance of any telephone conversation or message passing over the lines of the system, except when lawfully authorized or directed so to do, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. 1960, c. 120, s. 111.

Persons  
other than  
employees  
divulging  
conversations

**112.** Every person who, having acquired knowledge of any conversation or message passing over any telephone line not addressed to or intended for such person, divulges the purport or substance of the conversation or message, except when lawfully authorized or directed so to do, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. 1960, c. 120, s. 112.

Using  
obscene  
language

**113.** Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, uses indecent, obscene, blasphemous or grossly insulting language is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. 1960, c. 120, s. 113.

**114.** Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, refuses to give up or permit the use of the line when requested so to do by the operator or by any other person in case of a fire, accident, sickness or other similar emergency is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 or to imprisonment for a term of not more than thirty days, or to both. 1960, c. 120, s. 114.

**115.—(1)** Every telephone system shall, on or before the 1st day of April in each year or, in the case of any one or more systems, at such later time in any year as the Commission approves, furnish to the Commission a return containing such particulars respecting the cost, receipts, expenditures, operation, management and equipment of the system as the Commission requires.

(2) Every officer of a system who authorizes or acquiesces in any default in making a return under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day during which the default continues. 1960, c. 120, s. 115.

**116.** *The Bulk Sales Act* does not apply to the sale of a telephone system or a part thereof under this Act. 1960, c. 120, s. 116.

Refusal to  
give up line

Annual  
returns

Offence

R.S.O. 1960,  
c. 43,  
not to apply



## CHAPTER 395

## The Territorial Division Act

1. The territorial division of Ontario into counties and districts shall continue as hereinafter set forth, and subject to sections 4 and 5, for municipal and judicial purposes such counties, and for judicial purposes such districts are respectively composed as follows:

[NOTE: *As to municipal and judicial purposes in provincial parks, see The Provincial Parks Act, R.S.O. 1960, c. 314, s. 3 (4, 5).*]

## 1.—THE COUNTY OF BRANT

Brant

consists of,

- (a) the City of Brantford;
- (b) the Town of Paris;
- (c) the townships of,

Brantford,	Onondaga,
Burford,	South Dumfries,
Oakland,	Tuscarora,

except that the Township of Tuscarora continues to be withdrawn from and does not form part of the County of Brant for municipal purposes.

## 2.—THE COUNTY OF BRUCE

Bruce

consists of,

- (a) the towns of Chesley, Kincardine, Port Elgin, Southampton, Walkerton, Wiarton;
- (b) the villages of Hepworth, Lion's Head, Lucknow, Mildmay, Paisley, Ripley, Tara, Teeswater, Tiverton;
- (c) the townships of,

Albemarle,	Culross,
Amabel,	Eastnor,
Arran,	Elderslie,
Brant,	Greenock,
Bruce,	Huron,
Carrick,	Kincardine,

Kinloss,  
Lindsay,

St. Edmunds,  
Saugeen.

The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

The Indian Reserve at Chiefs' Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel.

Carleton

### 3.—THE COUNTY OF CARLETON

consists of,

- (a) the City of Ottawa;
- (b) the Town of Eastview;
- (c) the villages of Richmond, Rockcliffe Park;
- (d) the townships of,
  - Fitzroy, Marlborough,
  - Gloucester, Nepean,
  - Goulbourn, North Gower,
  - Huntley, Osgoode,
  - March, Torbolton.

Dufferin

### 4.—THE COUNTY OF DUFFERIN

consists of,

- (a) the Town of Orangeville;
- (b) the villages of Grand Valley, Shelburne;
- (c) the townships of,
  - Amaranth, Melancthon,
  - East Garafraxa, Mono,
  - East Luther, Mulmur.

Dundas

### 5.—THE COUNTY OF DUNDAS

consists of,

- (a) the villages of Chesterville, Iroquois, Morrisburg, Winchester;
- (b) the townships of,
  - Matilda, Williamsburgh,
  - Mountain, Winchester.



## 6.—THE COUNTY OF DURHAM

Durham

consists of,

- (a) the towns of Bowmanville, Port Hope;
- (b) the villages of Millbrook, Newcastle;
- (c) the townships of,
  - Cartwright,                      Darlington,
  - Cavan,                              Hope,
  - Clarke,                              Manvers.

## 7.—THE COUNTY OF ELGIN

Elgin

consists of,

- (a) the City of St. Thomas;
- (b) the Town of Aylmer;
- (c) the villages of Dutton, Port Burwell, Port Stanley, Rodney, Springfield, Vienna, West Lorne;
- (d) the townships of,
  - Aldborough,                      South Dorchester,
  - Bayham,                              Southwold,
  - Dunwich,                              Yarmouth.
  - Malahide,

## 8.—THE COUNTY OF ESSEX

Essex

consists of,

- (a) the City of Windsor;
- (b) the towns of Amherstburg, Essex, Harrow, Kingsville, Leamington, Ojibway, Tecumseh;
- (c) the separated Town of Riverside;
- (d) the villages of Belle River, St. Clair Beach;
- (e) the townships of,
  - Anderdon,                      Pelee,
  - Colchester North,              Rochester,
  - Colchester South,              Sandwich East,
  - Gosfield North,                Sandwich South,
  - Gosfield South,                Sandwich West,
  - Maidstone,                      Tilbury North,
  - Malden,                          Tilbury West,
  - Mersea,

except that the Township of Pelee continues to be separate, for municipal purposes, from the County of Essex.

Certain  
islands  
included in  
Township of  
Pelee

Middle Sister Island, North Harbour Island, East Sister Island, Hen Island, Big Chicken Island, Little Chicken Island, and Middle Island together with all lands and water in Lake Erie within one mile of the shore of Pelee Island form part of the Township of Pelee.

Frontenac

### 9.—THE COUNTY OF FRONTENAC

consists of,

- (a) the City of Kingston;
- (b) the townships of,
 

Barrie,	Palmerston and North
Bedford,	and South Canonto,
Clarendon and Miller,	Pittsburgh,
Hinchinbrooke,	Portland,
Howe Island,	Storrington,
Kennebec,	Wolfe Island (including
Kingston,	Garden Island,
Loughborough,	Simcoe Island, Horse
Olden,	Shoe Island and Mud
Oso,	Island).

Glengarry

### 10.—THE COUNTY OF GLENGARRY

consists of,

- (a) the Town of Alexandria;
- (b) the villages of Lancaster, Maxville;
- (c) the townships of,
 

Charlottenburgh,	Lancaster,
Kenyon,	Lochiel.

Grenville

### 11.—THE COUNTY OF GRENVILLE

consists of,

- (a) the separated Town of Prescott;
- (b) the villages of Cardinal, Kemptville, Merrickville;
- (c) the townships of,
 

Augusta,	South Gower,
Edwardsburgh,	Wolford.
Oxford (on Rideau),	

## 12.—THE COUNTY OF GREY

Grey

consists of,

- (a) the City of Owen Sound;
- (b) the towns of Durham, Hanover, Meaford, Thornbury;
- (c) the villages of Chatsworth, Dundalk, Flesherton, Markdale, Neustadt, Shallow Lake;
- (d) the townships of,
  - Artemesia, Keppel,
  - Bentinck, Normanby,
  - Collingwood, Osprey,
  - Derby, Proton,
  - Egremont, Saint Vincent,
  - Euphrasia, Sarawak,
  - Glenelg, Sullivan,
  - Holland, Sydenham.

## 13.—THE COUNTY OF HALDIMAND

Haldimand

consists of

- (a) the towns of Caledonia, Dunnville;
- (b) the villages of Cayuga, Hagersville, Jarvis;
- (c) the townships of,
  - Canborough, Rainham,
  - Dunn, Seneca,
  - Moulton, Sherbrooke,
  - North Cayuga, South Cayuga,
  - Oneida, Walpole.

## 14.—THE COUNTY OF HALTON

Halton

consists of,

- (a) the towns of Acton, Burlington, Georgetown, Milton, Oakville;
- (b) the townships of,
  - Esquesing, Trafalgar.
  - Nassagaweya,

Hastings

## 15.—THE COUNTY OF HASTINGS

consists of,

- (a) the City of Belleville;
- (b) the Town of Desoronto;
- (c) the separated Town of Trenton;
- (d) the villages of Bancroft, Deloro, Frankford, Madoc, Marmora, Stirling, Tweed;
- (e) the townships of,
 

Bangor, Wicklow and	Madoc,
McClure,	Marmora and Lake,
Carlow,	Mayo,
Dungannon,	Monteagle,
Elzevir and Grims-	Rawdon,
thorpe,	Sidney,
Faraday,	ThurLOW,
Herschel,	Tudor and Cashel,
Hungerford,	Tyendinaga,
Huntingdon,	Wollaston.
Limerick,	

Huron

## 16.—THE COUNTY OF HURON

consists of,

- (a) the towns of Clinton, Exeter, Goderich, Seaforth, Wingham;
- (b) the villages of Blyth, Brussels, Hensall, Zurich;
- (c) the townships of,
 

Ashfield,	McKillop,
Colborne,	Morris,
East Wawanosh,	Stanley,
Goderich,	Stephen,
Grey,	Tuckersmith,
Hay,	Turnberry,
Howick,	Usborne,
Hullett,	West Wawanosh.

Kent

## 17.—THE COUNTY OF KENT

consists of,

- (a) the City of Chatham;
- (b) the towns of Blenheim, Bothwell, Dresden, Ridgetown, Tilbury, Wallaceburg;

(c) the villages of Erieau, Erie Beach, Highgate, Thamesville, Wheatley;

(d) the townships of,

Camden,  
Chatham,  
Dover,  
Harwich,  
Howard,

Orford,  
Raleigh,  
Romney,  
Tilbury East,  
Zone.

## 18.—THE COUNTY OF LAMBTON

Lambton

consists of,

(a) the City of Sarnia;

(b) the towns of Forest, Petrolia;

(c) the villages of Alvinston, Arkona, Courtright, Grand Bend, Oil Springs, Point Edward, Thedford, Watford, Wyoming;

(d) the townships of,

Bosanquet,  
Brooke,  
Dawn,  
Enniskillen,  
Euphemia,  
Moore,  
Plympton,

Sarnia,  
Sombra, including Walpole Island, St. Anne's Island and the other islands at the mouth of the St. Clair River,  
Warwick.

## 19.—THE COUNTY OF LANARK

Lanark

consists of,

(a) the towns of Almonte, Carleton Place, Perth;

(b) the separated Town of Smith's Falls;

(c) the Village of Lanark;

(d) the townships of,

Bathurst,  
Beckwith,  
Dalhousie and North  
Sherbrooke,  
Darling,  
Drummond,  
Lanark,

Lavant,  
Montague,  
North Burgess,  
North Elmsley,  
Pakenham,  
Ramsay,  
South Sherbrooke.

Leeds

## 20.—THE COUNTY OF LEEDS

consists of,

- (a) the separated towns of Brockville, Gananoque;
- (b) the villages of Athens, Newboro', Westport;
- (c) the townships of,
 

Bastard and South	North Crosby,
Burgess,	Rear of Leeds and Lans-
Elizabethtown,	downe,
Front of Escott,	Rear of Yonge and
Front of Leeds and	Escott,
Lansdowne,	South Crosby,
Front of Yonge,	South Elmsley.
Kitley,	

Lennox and  
Addington

## 21.—THE COUNTY OF LENNOX AND ADDINGTON

consists of,

- (a) the Town of Napanee;
- (b) the villages of Bath, Newburgh;
- (c) the townships of,
 

Adolphustown,	Kaladar, Anglesea and
Amherst Island,	Effingham,
Camden,	North Fredericksburgh,
Denbigh, Abinger and	Richmond,
Ashby,	Sheffield,
Ernestown,	South Fredericksburgh.

Lincoln

## 22.—THE COUNTY OF LINCOLN

consists of,

- (a) the City of St. Catharines;
- (b) the towns of Grimsby, Merritton, Niagara, Port Dalhousie;
- (c) the Village of Beamsville;
- (d) the townships of,
 

Caistor,	Louth,
Clinton,	Niagara,
Gainsborough,	North Grimsby,
Grantham,	South Grimsby.

## 23.—THE COUNTY OF MIDDLESEX

Middlesex

consists of,

- (a) the City of London;
- (b) the towns of Parkhill, Strathroy;
- (c) the villages of Ailsa Craig, Glencoe, Lucan, Newbury, Wardsville;
- (d) the townships of,
  - Adelaide, McGillivray,
  - Biddulph, Metcalfe,
  - Caradoc, Mosa,
  - Delaware, North Dorchester,
  - East Williams, Westminster,
  - Ekfrid, West Nissouri,
  - Lobo, West Williams.
  - London,

## 24.—THE COUNTY OF NORFOLK

Norfolk

consists of,

- (a) the towns of Delhi, Port Dover, Simcoe, Waterford;
- (b) the Village of Port Rowan;
- (c) the townships of,
  - Charlotteville, South Walsingham,
  - Houghton, Townsend,
  - Middleton, Windham,
  - North Walsingham, Woodhouse.

## 25.—THE COUNTY OF NORTHUMBERLAND

Northum-  
berland

consists of,

- (a) the towns of Campbellford, Cobourg;
- (b) the villages of Brighton, Colborne, Hastings;
- (c) the townships of,
  - Alnwick, Murray,
  - Brighton, Percy,
  - Cramahe, Seymour,
  - Haldimand, South Monaghan.
  - Hamilton,

## Ontario

## 26.—THE COUNTY OF ONTARIO

consists of,

- (a) the City of Oshawa;
- (b) the towns of Ajax, Uxbridge, Whitby;
- (c) the villages of Beaverton, Cannington, Pickering, Port Perry;
- (d) the townships of,
 

Brock,	Scott,
East Whitby,	Scugog,
Mara,	Thorah (including Can-
Pickering,	ise or Thorah Island),
Rama,	Uxbridge,
Reach,	Whitby.

## Oxford

## 27.—THE COUNTY OF OXFORD

consists of,

- (a) the City of Woodstock;
- (b) the Town of Tillsonburg;
- (c) the separated Town of Ingersoll;
- (d) the villages of Embro, Norwich, Tavistock;
- (e) the townships of,
 

Blandford,	North Norwich,
Blenheim,	North Oxford,
Dereham,	South Norwich,
East Nissouri,	West Oxford,
East Oxford,	West Zorra.
East Zorra,	

## Peel

## 28.—THE COUNTY OF PEEL

consists of,

- (a) the Town of Brampton;
- (b) the villages of Bolton, Caledon East, Port Credit, Streetsville;
- (c) the townships of,
 

Albion,	Toronto,
Caledon,	Toronto Gore.
Chinguacousy,	



## 29.—THE COUNTY OF PERTH

Perth

consists of,

- (a) the City of Stratford;
- (b) the towns of Listowel, Mitchell;
- (c) the separated Town of St. Mary's;
- (d) the Village of Milverton;
- (e) the townships of,
  - Blanshard, Hibbert,
  - Downie (including the Logan,
  - Gore of Downie), Mornington,
  - Ellice, North Easthope,
  - Elma, South Easthope,
  - Fullarton, Wallace.

## 30.—THE COUNTY OF PETERBOROUGH

Peter-  
borough

consists of,

- (a) the City of Peterborough;
- (b) the villages of Havelock, Lakefield, Norwood;
- (c) the townships of,
  - Asphodel, Ennismore,
  - Belmont and Methuen, Galway and Cavendish,
  - Burleigh and An- Harvey,
  - struther, North Monaghan,
  - Chandos, Otonabee,
  - Douro, Smith.
  - Dummer,

## 31.—THE COUNTY OF PRESCOTT

Prescott

consists of,

- (a) the towns of Hawkesbury, Vankleek Hill;
- (b) the villages of Alfred, L'Orignal;
- (c) the townships of,
  - Alfred, North Plantagenet,
  - Caledonia, South Plantagenet,
  - East Hawkesbury, West Hawkesbury.
  - Longueuil,

Prince  
Edward

## 32.—THE COUNTY OF PRINCE EDWARD

consists of,

- (a) the Town of Picton;
- (b) the villages of Bloomfield, Wellington;
- (c) the townships of,
 

Ameliasburgh,	North Marysburgh,
Athol,	Sophiasburgh,
Hallowell,	South Marysburgh.
Hillier,	

Renfrew

## 33.—THE COUNTY OF RENFREW

consists of,

- (a) the towns of Arnprior, Deep River, Pembroke, Renfrew;
- (b) the villages of Barry's Bay, Beachburg, Braeside, Chalk River, Cobden, Eganville, Killaloe Station;
- (c) the townships of,
 

Admaston,	Pembroke,
Alice and Fraser,	Petawawa,
Bagot and Blithfield,	Radcliffe,
Bromley,	Raglan,
Brougham,	Rolph, Buchanan,
Brudenell and Lyndoch,	Wylie and McKay,
Grattan,	Ross,
Griffith and Mata-	Sebastopol,
watchan,	Sherwood, Jones and
Hagarty and Richards,	Burns,
Head, Clara and Maria,	South Algona,
Horton,	Stafford,
McNab,	Westmeath,
North Algona,	Wilberforce.

Russell

## 34.—THE COUNTY OF RUSSELL

consists of,

- (a) the Town of Rockland;
- (b) the Village of Casselman;
- (c) the townships of,
 

Cambridge,	Cumberland,
Clarence,	Russell.

## 35.—THE COUNTY OF SIMCOE

Simcoe

consists of,

- (a) the City of Barrie;
- (b) the towns of Alliston, Bradford, Collingwood, Midland, Orillia, Penetanguishene, Stayner;
- (c) the villages of Beeton, Coldwater, Creemore, Elm-vale, Port McNicoll, Tottenham, Victoria Harbour, Wasaga Beach;
- (d) the townships of,
 

Adjala,	Oro,
Essa,	Sunnidale,
Flos,	Tay,
Innisfil,	Tecumseth,
Matchedash,	Tiny,
Medonte,	Tosorontio,
Nottawasaga,	Vespra,
Orillia,	West Gwillimbury,

## 36.—THE COUNTY OF STORMONT

Stormont

consists of,

- (a) the City of Cornwall;
- (b) the Village of Finch;
- (c) the townships of,
 

Cornwall,	Osnabruck,
Finch,	Roxborough.

## 37.—THE COUNTY OF VICTORIA

Victoria

consists of,

- (a) the Town of Lindsay;
- (b) the villages of Bobcaygeon, Fenelon Falls, Omemee, Sturgeon Point, Woodville;
- (c) the townships of,
 

Bexley,	Laxton, Digby and
Carden,	Longford,
Dalton,	Mariposa,
Eldon,	Ops,
Emily,	Somerville,
Fenelon,	Verulam.

## Waterloo

### 38.—THE COUNTY OF WATERLOO

consists of,

- (a) the cities of Galt, Kitchener, Waterloo;
- (b) the towns of Elmira, Hespeler, Preston;
- (c) the villages of Ayr, Bridgeport, New Hamburg;
- (d) the townships of,
 

North Dumfries,	Wilmot,
Waterloo,	Woolwich.
Wellesley,	

## Welland

### 39.—THE COUNTY OF WELLAND

consists of,

- (a) the cities of Niagara Falls, Welland;  
(b) the towns of Fort Erie, Port Colborne, Thorold;  
(c) the villages of Chippawa, Crystal Beach, Fonthill;  
(d) the townships of,  
Bertie, Stamford,  
Crowland, Thorold,  
Humberstone, Wainfleet,  
Pelham, Willoughby.

## Wellington

#### 40.—THE COUNTY OF WELLINGTON

consists of,

- (a) the City of Guelph;
- (b) the towns of Fergus, Harriston, Mount Forest, Palmerston;
- (c) the villages of Arthur, Clifford, Drayton, Elora, Erin;
- (d) the townships of,
- |              |                 |
|--------------|-----------------|
| Arthur,      | Nichol,         |
| Eramosa,     | Peel,           |
| Erin,        | Pilkington,     |
| Guelph,      | Puslinch,       |
| Maryborough, | West Garafraxa, |
| Minto,       | West Luther.    |

## 41.—THE COUNTY OF WENTWORTH

Wentworth

consists of,

- (a) the City of Hamilton;
- (b) the towns of Dundas, Stoney Creek;
- (c) the Village of Waterdown;
- (d) the townships of,
- |                   |                   |
|-------------------|-------------------|
| Ancaster,         | Glanford,         |
| Beverly,          | Saltfleet,        |
| Binbrook,         | West Flamborough. |
| East Flamborough, |                   |

## 42.—THE COUNTY OF YORK

York

consists of,

- (a) the City of Toronto;
- (b) the towns of Aurora, Newmarket, Richmond Hill;
- (c) the separated towns of Leaside, Mimico, New Toronto, Weston;
- (d) the villages of Markham, Stouffville, Sutton, Woodbridge;
- (e) the separated villages of Forest Hill, Long Branch, Swansea;
- (f) the separated townships of East York, Etobicoke, North York, Scarborough, York;
- (g) the townships of East Gwillimbury, Georgina, King, Markham, North Gwillimbury, Vaughan, Whitchurch.

### 43.—THE PROVISIONAL COUNTY OF HALIBURTON Haliburton

consists of,

- (a) the Improvement District of Bicroft;
- (b) the townships of,
- |                   |                        |
|-------------------|------------------------|
| Anson, Hindon and | Dysart, Bruton, Clyde, |
| Minden,           | Dudley, Eyre, Guil-    |
|                   | ford, Harburn, Har-    |
| Cardiff,          | court and Havelock,    |

Glamorgan,	Sherborne, McClintock,
Lutterworth,	Livingstone, Lawrence and Nightingale,
Monmouth,	Snowdon, Stanhope.

[NOTE: *As to judicial purposes see The Haliburton Act, R.S.O. 1960, c. 170.*]

## Algoma

## 44.—THE TERRITORIAL DISTRICT OF ALGOMA

consists of,

- (a) the City of Sault Ste. Marie;
- (b) the towns of Blind River, Bruce Mines, Nesterville, Thessalon;
- (c) the villages of Hilton Beach, Iron Bridge;
- (d) the geographic townships of,

A,	Champlain,	E,
Abbott,	Chelsea,	Ebbs,
Aberdeen,	Chesley,	Elgie,
Aberdeen Additional,	Chesley Additional,	Ericson,
Abigo,	Cholette,	Ermine,
Acton,	Clouston,	Esten,
Alderson,	Cobden,	F,
Allenby,	Coderre,	Farquhar,
Amik,	Common,	Fenwick,
Amundsen,	Concobar,	Fisher,
Anderson,	Conking,	Flanders,
Archibald,	Cooper,	Foch,
Arnott,	Cromlech,	Frances,
Awenge,	Cross,	Franz,
Aweres,	Cudney,	Frost,
B,	Curtis,	G,
Bayfield,	D,	Galbraith,
Beaton,	Davin,	Gaudette,
Bourinot,	Day,	Gillmor,
Breckenridge,	Deagle,	Gladstone,
Bridgland,	Dennis	Glasgow,
Bright,	Deroche,	Gould,
Bright Additional,	Derry,	Gourlay,
Buchan,	Doherty,	Grasett,
Byng,	Doucett,	H,
C,	Downer,	Haig,
Carney,	Dowsley,	Hambleton,
Challener,	Drew,	Haughton,
	Duncan,	Havilland,

Hawkins,	McEwing,	Shanly,
Hayward,	McFarlan,	Shedden,
Herrick,	McGiverin,	Shields,
Hiawatha,	McMahon,	Simpson,
Hilton,	Meath,	Spragge,
Hodgins,	Mercer,	Stefansson,
Home,	Meredith,	Strickland,
Hook,	Mildred,	Striker,
Hunt,	Minnipuka,	T,
I,	Mons,	Talbott,
Irving,	Montgomery,	Tarbutt,
J,	Moorehouse,	Tarbutt Additional,
Jarvis,	Morin,	Tarentorus,
Jocelyn,	Mosambik,	Tedder,
Johns,	N,	Templeton,
Johnson,	Nagagami,	Tennyson,
K,	Nameigos,	Thessalon,
Kapuskasing,	Nebotik,	Thompson,
Kars,	Newlands,	Tilley,
Kehoe,	O,	Tilston,
Kildare,	Odlum,	Tupper,
Kincaid,	Opazatika,	U,
Kirkwall,	Oscar,	Usnac,
Kirkwood,	Otter,	V,
Korah,	P,	VanKoughnet,
L,	Palmer,	Victoria,
Laird,	Parke,	W,
Larkin,	Parkinson,	Walls,
Lascelles,	Patton,	Wells,
Lefroy,	Pearkes,	Welsh,
Legge,	Pelletier,	Whitman,
Lerwick,	Pennefather,	Wicksteed,
Lessard,	Plummer,	Winget,
Lewis,	Plummer	Woolrich,
Ley,	Additional,	X,
Lipton,	Prince,	Y,
Lizar,	Proctor,	Z,
Long,	Puskuta,	Tp. 1A,
Lougheed,	Q,	Tp. 1B,
M,	R,	Tp. 1C,
Macdonald,	Radisson,	Tp. 1D,
Mack,	Roche,	Tp. 1E,
Magone,	Rose,	Tp. 1F,
Makawa,	Ryan,	Tp. 2A,
Marjorie,	S,	Tp. 2B,
Marne,	St. Joseph,	Tp. 2C,
Martin,	St. Julien,	Tp. 2D,
Matthews,	Scarfe,	Tp. 2E,
Maude,	Scholfield,	Tp. 2F,

Tp. 3A,	Tp. 53,	Tp. 23, Range 11,
Tp. 3B,	Tp. 54,	Tp. 23, Range 12,
Tp. 3C,	Tp. 55,	Tp. 23, Range 13,
Tp. 3D,	Tp. 56,	Tp. 23, Range 14,
Tp. 3E,	Tp. 61,	Tp. 24, Range 11,
Tp. 3F,	Tp. 62,	Tp. 24, Range 12,
Tp. 3G,	Tp. 63,	Tp. 24, Range 13,
Tp. 3H,	Tp. 64,	Tp. 24, Range 14,
Tp. 4A,	Tp. 65,	Tp. 24, Range 15,
Tp. 4B,	Tp. 66,	Tp. 24, Range 16,
Tp. 4C,	Tp. 123,	Tp. 24, Range 17,
Tp. 4D,	Tp. 124,	Tp. 24, Range 18,
Tp. 4E,	Tp. 125,	Tp. 24, Range 19,
Tp. 4F,	Tp. 129,	Tp. 24, Range 20,
Tp. 4G,	Tp. 130,	Tp. 24, Range 21,
Tp. 4H,	Tp. 131,	Tp. 24, Range 22,
Tp. 5A,	Tp. 132,	Tp. 24, Range 23,
Tp. 5B,	Tp. 137,	Tp. 24, Range 24,
Tp. 5C,	Tp. 138,	Tp. 25, Range 12,
Tp. 5D,	Tp. 139,	Tp. 25, Range 13,
Tp. 5E,	Tp. 143,	Tp. 25, Range 14,
Tp. 5F,	Tp. 144,	Tp. 25, Range 15,
Tp. 5G,	Tp. 145,	Tp. 25, Range 16,
Tp. 5H,	Tp. 149,	Tp. 25, Range 17,
Tp. 6A,	Tp. 150,	Tp. 25, Range 18,
Tp. 6B,	Tp. 151,	Tp. 25, Range 19,
Tp. 6C,	Tp. 155,	Tp. 25, Range 20,
Tp. 6D,	Tp. 156,	Tp. 25, Range 21,
Tp. 6E,	Tp. 157,	Tp. 25, Range 22,
Tp. 6F,	Tp. 161,	Tp. 25, Range 23,
Tp. 6G,	Tp. 162,	Tp. 25, Range 24,
Tp. 6H,	Tp. 163,	Tp. 25, Range 25,
Tp. 7A,	Tp. 167,	Tp. 25, Range 26,
Tp. 7B,	Tp. 168,	Tp. 26, Range 12,
Tp. 7C,	Tp. 169,	Tp. 26, Range 13,
Tp. 7D,	Tp. 175,	Tp. 26, Range 14,
Tp. 7E,	Tp. 176,	Tp. 26, Range 15,
Tp. 7F,	Tp. 182,	Tp. 26, Range 16,
Tp. 7G,	Tp. 188,	Tp. 26, Range 17,
Tp. 7H,	Tp. 195,	Tp. 26, Range 18,
Tp. 7Z,	Tp. 196,	Tp. 26, Range 19,
Tp. 43,	Tp. 201,	Tp. 26, Range 20,
Tp. 45,	Tp. 202,	Tp. 26, Range 21,
Tp. 46,	Tp. 22, Range 10,	Tp. 26, Range 22,
Tp. 47,	Tp. 22, Range 11,	Tp. 26, Range 23,
Tp. 48,	Tp. 22, Range 12,	Tp. 26, Range 24,
Tp. 49,	Tp. 22, Range 13,	Tp. 26, Range 25,
Tp. 51,	Tp. 22, Range 14,	Tp. 26, Range 26,
Tp. 52,	Tp. 23, Range 10,	Tp. 27, Range 12,



Tp. 27, Range 13,	Tp. 28, Range 27,	Tp. 31, Range 19,
Tp. 27, Range 14,	Tp. 29, Range 14,	Tp. 31, Range 20,
Tp. 27, Range 16,	Tp. 29, Range 15,	Tp. 31, Range 21,
Tp. 27, Range 17,	Tp. 29, Range 16,	Tp. 31, Range 22,
Tp. 27, Range 18,	Tp. 29, Range 17,	Tp. 31, Range 23,
Tp. 27, Range 19,	Tp. 29, Range 18,	Tp. 31, Range 24,
Tp. 27, Range 20,	Tp. 29, Range 19,	Tp. 31, Range 25,
Tp. 27, Range 21,	Tp. 29, Range 20,	Tp. 31, Range 26,
Tp. 27, Range 22,	Tp. 29, Range 21,	Tp. 31, Range 27,
Tp. 27, Range 23,	Tp. 29, Range 22,	Tp. 32, Range 23,
Tp. 27, Range 24,	Tp. 29, Range 23,	Tp. 32, Range 24,
Tp. 27, Range 25,	Tp. 29, Range 24,	Tp. 32, Range 25,
Tp. 27, Range 26,	Tp. 29, Range 25,	Tp. 32, Range 26,
Tp. 28, Range 13,	Tp. 29, Range 26,	Tp. 32, Range 27,
Tp. 28, Range 14,	Tp. 29, Range 27,	Tp. 32, Range 28,
Tp. 28, Range 15,	Tp. 30, Range 17,	Tp. 33, Range 23,
Tp. 28, Range 16,	Tp. 30, Range 18,	Tp. 33, Range 24,
Tp. 28, Range 17,	Tp. 30, Range 19,	Tp. 33, Range 25,
Tp. 28, Range 18,	Tp. 30, Range 20,	Tp. 33, Addi-
Tp. 28, Range 19,	Tp. 30, Range 21,	tional, Range 25,
Tp. 28, Range 20,	Tp. 30, Range 22,	Tp. 33, Range 26,
Tp. 28, Range 21,	Tp. 30, Range 23,	Tp. 33, Addi-
Tp. 28, Range 22,	Tp. 30, Range 24,	tional, Range 26,
Tp. 28, Range 23,	Tp. 30, Range 25,	Tp. 33, Range 27,
Tp. 28, Range 24,	Tp. 30, Range 26,	Tp. 33, Range 28,
Tp. 28, Range 25,	Tp. 30, Range 27,	
Tp. 28, Range 26,	Tp. 31, Range 18,	

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence south along O.L.S. Niven's meridian line of 1907 to the southerly extremity thereof; thence continuing south along O.L.S. Speight's meridian line of 1902 to the shore of Lake Superior; thence south astronomically to the International Boundary; thence southeasterly and easterly following the International Boundary through Lake Superior, the St. Mary River and the expansions thereof and the North Channel of Lake Huron to an angle of the International Boundary in the North Channel of Lake Huron between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles south astronomically from the southwest extremity of Kenny Point of Innes Island; thence north  $55^{\circ}$  east astronomically five miles; thence east astronomically three miles; thence south  $36^{\circ}$  east astronomically five and one-half miles; thence north-easterly in a straight line to a point in the water's edge of the North Channel of Lake Huron at the intersection of the production southerly of the

west boundary of the Township of Harrow; thence north and northeasterly along the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southeast corner of the Township of Victoria; thence north along the east boundary of the said Township to the northeast corner thereof; thence east along the south boundary of the Township of Tennyson to the southeast corner of the said Township; thence north astronomically to the northeast corner of Township 125; thence east along the south boundary of Township A to the southeast corner thereof; thence north astronomically to the northeast corner of Township D; thence west astronomically to the northwest corner of Township T; thence north astronomically to the northeast corner of Township 7Z; thence west astronomically to the northeast corner of Township 23, Range 14; thence north astronomically to the northeast corner of Township 24, Range 22; thence west astronomically to the southwest corner of Township 24, Range 23; thence north astronomically to the northeast corner of the Township of Meath; thence east astronomically to the southeast corner of the Township of Lougheed; thence north astronomically to the northeast corner of the Township of Shanly; thence west astronomically to the southeast corner of the Township of Scholfield; thence north along the east boundaries of the Townships of Scholfield and Ebbs to the northeast corner of the last-mentioned Township; thence west astronomically to the northeast corner of the Township of Dowsley; thence north along the east boundaries of the Townships of McEwing and Arnott to the northeast corner of the last-mentioned Township; thence west astronomically to the southwest corner of the Township of Clavet, the point of commencement.

Provisional  
Judicial  
District of  
Algoma

The Territorial District of Algoma forms the Provisional Judicial District of Algoma.

Boundary  
line between  
municipali-  
ties of  
Johnson,  
etc., and  
Plummer  
defined

The westerly boundary of the Huron Copper Bay and Mining Company's location is and has always been since the 25th day of April, 1890, the true and correct boundary line between the municipalities of Johnson, Tarbutt and Tarbutt Additional and the municipality of Plummer Additional.

Cochrane

#### 45.—THE TERRITORIAL DISTRICT OF COCHRANE

consists of,

- (a) the towns of Cochrane, Hearst, Iroquois Falls, Kapuskasing, Matheson, Smooth Rock Falls, Timmins;

(b) the geographic townships of,

Abbotsford,	Calder,	Enid,
Acres,	Calvert,	Evelyn,
Adair,	Canfield,	Fauquier,
Adanac,	Cargill,	Fenton,
Agassiz,	Carman,	Fergus,
Agate,	Carmichael,	Findlay,
Aitken,	Carnegie,	Fintry,
Alexandra,	Caron,	Fleck,
Amery,	Carr,	Ford,
Ardagh,	Carroll,	Fortune,
Aubin,	Carscallen,	Fournier,
Auden,	Carss,	Fox,
Aurora,	Case,	Frecheville,
Avon,	Casgrain,	Freele,
Bannerman,	Casselman,	Fryatt,
Barker,	Challies,	Fushimi,
Barlow,	Chipman,	Gaby,
Barnet,	Clavet,	Galna,
Beardmore,	Clay,	Ganong,
Beatty,	Clergue,	Garden,
Beck,	Clive,	Gardiner,
Belford,	Clute,	Garrison,
Beniah,	Cockshutt,	Geary,
Berry,	Cody,	Gentles,
Bessborough,	Colquhoun,	German,
Bicknell,	Cook,	Gill,
Birdsall,	Côté,	Glackmeyer,
Blakelock,	Coulson,	Godfrey,
Blount,	Crawford,	Goldwin,
Bond,	Cumming,	Goodwin,
Bonis,	Currie,	Gowan,
Bourassa,	Dargavel,	Greer,
Bowman,	Deloro,	Griffin,
Bowyer,	Dempsay,	Guibord,
Boyce,	De Pencier,	Guilfoyle,
Boyle,	Devitt,	Gurney,
Bradburn,	Dokis,	Habel,
Bradette,	Duff,	Haggart,
Bradley,	Dundonald,	Haight,
Bragg,	Dunsmore,	Hambly,
Brain,	Dyer,	Hamlet,
Bristol,	Ebbitt,	Haney,
Brower,	Ecclestone,	Hanlan,
Burrell,	Edwards,	Hanna,
Burritt,	Egan,	Harewood,
Burstall,	Eilber,	Harker,
Byers,	Elliott,	Harmon,
Caithness,	Emerson,	Heath,

Hecla,  
Heighington,  
Henderson,  
Henley,  
Hepburn,  
Hicks,  
Hillmer,  
Hislop,  
Hoblitzell,  
Hobson,  
Hogg,  
Holloway,  
Homuth,  
Hopkins,  
Horden,  
Howells,  
Hoyle,  
Hurdman,  
Hurtubise,  
Idington,  
Ingliš,  
Ireland,  
Irish,  
Jamieson,  
Jessop,  
Kendall,  
Kendrey,  
Kennedy,  
Kenning,  
Kerrs,  
Kidd,  
Kilmer,  
Kineras,  
Kingsmill,  
Kipling,  
Kirkland,  
Knox,  
Kohler,  
Laidlaw,  
Lamarche,  
Lambert,  
Lamplugh,  
Landry,  
Langemarck,  
Laughton,  
Leitch,  
Lennox,  
Lewers,  
Lisgar,

Little,  
Loveland,  
Lowther,  
Lucas,  
Mabee,  
Macdiarmid,  
Machin,  
Macklem,  
Macvicar,  
Magladery,  
Mahaffy,  
Maher,  
Mahoney,  
Mann,  
Marathon,  
Marceau,  
Marriott,  
Marven,  
Massey,  
Matheson,  
Maund,  
McAlpine,  
McBrien,  
McCann,  
McCart,  
McCausland,  
McCoig,  
McCool,  
McCowan,  
McCrea,  
McCuaig,  
McKnight,  
McLeister,  
McMillan,  
McQuibban,  
Menapia,  
Mewhinney,  
Michaud,  
Milligan,  
Moberly,  
Montcalm,  
Moody,  
Moose,  
Morrow,  
Mortimer,  
Mountjoy,  
Mowbray,  
Mulholland,  
Mulloy,

Mulvey,  
Munro,  
Murphy,  
Nansen,  
Nassau,  
Neely,  
Nesbitt,  
Nettleton,  
Newman,  
Newmarket,  
Nixon,  
Noseworthy,  
Nova,  
O'Brien,  
Ogden,  
Oke,  
Ophir,  
Orkney,  
Ossin,  
Ottaway,  
Owens,  
Parliament,  
Parnell,  
Parr,  
Pearce,  
Pickett,  
Pinard,  
Pitt,  
Playfair,  
Pliny,  
Potter,  
Poulett,  
Prosser,  
Purvis,  
Pyne,  
Rand,  
Rapley,  
Raven,  
Raynar,  
Reaume,  
Reid,  
Rickard,  
Ritchie,  
Robb,  
Roebuck,  
Rogers,  
Rowlandson,  
Rykert,  
St. John,

St. Laurent,	Stimson,	Tomlinson,
Sanborn,	Stock,	Torrance,
Sanderson.	Stoddard,	Traill,
Sangster,	Storey,	Tucker,
Sankey,	Stoughton,	Tully,
Sargeant,	Strachan,	Turnbull,
Scapa,	Stringer,	Tweed,
Scovil,	Studholme,	Valentine,
Seaton,	Sulman,	Verdun,
Seguin,	Sutcliffe,	Wacousta,
Selwyn,	Swanson,	Wadsworth,
Shakleton,	Swartman,	Walker,
Shannon,	Sweatman,	Warden,
Shaw,	Sweet,	Wark,
Shearer,	Sydere,	Watson,
Sheldon,	Syer,	Way,
Sheraton,	Tannahill,	Webster,
Sherring,	Taylor,	Weichel,
Shetland,	Teefy,	Wesley,
Shuel,	Teetzel,	Whitesides,
Singer,	Thackeray,	Whitney,
Slack,	Thomas,	Wilhelmina,
Stapells,	Thorburn,	Wilkie,
Staples,	Thorning,	Williamson,
Staunton,	Tisdale,	Winnington,
Steele,	Tolmie,	Wright,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence north along the west boundaries of the Townships of Clavet and Boyce to the northwest corner of the last-mentioned Township; thence west along the south boundaries of the Townships of Henderson, Selwyn, Barlow, Goodwin, Chipman and Raynar to the southwest corner of the last-mentioned Township; thence north along the meridian run by O.L.S. Speight and van Nostrand in 1925 and its northerly production to the centre of the main channel of the Albany River; thence easterly, northerly and northeasterly along the centre of the main channel of the Albany River and the expansions thereof to the shore of James Bay; thence southeasterly, southerly, easterly and northeasterly along the shore of James Bay to its intersection with the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the southeast corner of the Township of Dokis; thence west astronomically to the southwest corner of the Township of Whitesides; thence north along the west boundary of the Township of Whitesides

to the northwest corner thereof; thence west astronomically to the southwest corner of the Township of Ossin; thence north astronomically to the northwest corner of the Township of Staples; thence west astronomically to the southwest corner of the Township of Caithness; thence north along the west boundaries of the Townships of Caithness and Orkney to the northwest corner of the Township of Orkney; thence west astronomically to the southwest corner of the Township of Langemarek; thence north astronomically along the west boundary of the Townships of Langemarek and Storey to the northwest corner of the last-mentioned Township; thence west astronomically to the southwest corner of the Township of Clavet, the point of commencement.

Provisional  
Judicial  
District of  
Cochrane

The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane.

Kenora

#### 46.—THE TERRITORIAL DISTRICT OF KENORA

consists of,

(a) the towns of Dryden, Keewatin, Kenora, Sioux Lookout;

(b) the geographic townships of,

Aubrey,	Drayton,	Langton,
Avery,	Drope,	Laval,
Barrett,	Echo,	le May,
Benedickson,	Eton,	Lomond,
Big Island,	Ewart,	MacFie,
Boys,	Factor,	MacNicol,
Bradshaw,	Forgie,	MacQuarrie,
Breithaupt,	Furniss,	Mafeking,
Bridges,	Gidley,	Malachi
Britton,	Glass,	Manross,
Broderick,	Godson,	McAree,
Brownridge,	Gour,	McGeorge,
Buller,	Grunmett,	McIlraith,
Burk,	Gundy,	McMeekin,
Cathcart,	Hartman,	McNevin,
Chartrand,	Haycock,	Melgund,
Code,	Hodgson,	Melick,
Colenso,	Hyndman,	Mutrie,
Corman,	Ignace,	Noyon,
Coyle,	Ilseley,	Osaquan,
Daniel,	Jackman,	Pelican,
Desmond,	Jaffray,	Pellatt,
Devonshire,	Jordan,	Pettypiece,
Dewan,	Kirkup,	Phillips,
Docker,	Ladysmith,	Pickerel,

Redditt,	Slaught,	Vermilion
Redvers,	Smellie,	Additional,
Revell,	Southworth,	Wabigoon,
Rice,	Stokes,	Wainwright,
Rowell,	Temple,	Wauchope,
Rudd,	Tustin,	Webb,
Rugby,	Tweedsmuir,	Willingdon,
Sanford,	Umbach,	Work,
Satterly,	Van Horne,	Zealand,
Skey,	Vermilion,	

together with all the remaining territory included within the following limits:

Commencing at the 48th mile post on O.L.S. Niven's meridian line of 1890 in latitude  $49^{\circ} 0' 6''$  north; thence due west 89 miles, 71 chains, 7 links more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the southeast angle of the Township of Godson and continuing west along the south boundary of the Township of Godson to the east shore of Sabaskong Bay of Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary between Canada and the United States of America; thence northerly and westerly along the International Boundary to the Interprovincial Boundary between Ontario and Manitoba; thence due north along the last-mentioned boundary to the middle of the main channel of the Winnipeg River; thence easterly upstream along the middle of the main channel of the Winnipeg and English Rivers and the lake expansions and along the middle of Lac Seul and Root River to the portage on the height of land; thence along the middle of the said portage to the waters flowing into Lake St. Joseph; thence along the middle of the main channel of Lake St. Joseph to O.L.S. Dobie's meridian line run in 1919; thence due south along the said last-mentioned meridian line and along O.L.S. Niven's meridian line run in 1890 to the point of commencement; and

- (c) the Patricia Portion which consists of the geographic townships of,

Agnew,	Bateman,	Byshe,
Baird,	Belanger,	Connell,
Ball,	Birkett,	Corless,
Balmer,	Bowerman,	Costello,

Dent,	Honeywell,	Mulcahy,
Dome,	Killala,	Ponsford,
Earngey,	Knott,	Ranger,
Fairlie,	McCullagh,	Shaver,
Goodall,	McDonough,	Skinner,
Graves,	McNaughton,	Todd,
Heyson,	Mitchell,	Willans,

together with all the remaining territory included within the following limits:

Commencing at the most northerly point of the westerly boundary of Ontario as determined by *The Canada (Ontario) Boundary Act*, 1889, Chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most eastern point of Island Lake, as fixed on the ground in the year 1930 by the erection of concrete monument number 295 of the Ontario-Manitoba Boundary survey and situated in about north latitude  $53^{\circ} 44' 19''.42$  and in about west longitude  $93^{\circ} 39' 14''.91$ ; thence northeasterly in a right line to a point twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1929; thence easterly and southerly following the shore of the said Bay to the point where the northerly boundary of Ontario as established under the said Act intersects the shore of James Bay; thence westward along the said boundary as established by the said Act to the place of commencement. (*See 1912, c. 3 and 1950, c. 48*)

[NOTE: *As to provision for the administration of justice, registration of instruments, etc., in Patricia, see The Patricia Act, R.S.O. 1937, c. 5.*]

Provisional  
Judicial  
District of  
Kenora

The Territorial District of Kenora forms the Provisional Judicial District of Kenora.

Manitoulin

#### 47.—THE TERRITORIAL DISTRICT OF MANITOULIN

consists of,

(a) the towns of Gore Bay, Little Current;

(b) the geographic townships of,

Allan,	Barrie Island,	Billings,
Assiginack,	Bidwell,	Burpee,



Campbell,	Gordon,	Robinson,
Carlyle,	Howland,	Rutherford,
Carnarvon,	Humboldt,	Sandfield,
Cockburn Island,	Killarney,	Sheguiandah,
Dawson,	Mills,	Tehkummah;

(c) the islands named,

Badgeley,	Great Cloche,	Sampson,
Bedford,	Green,	Squaw,
Burnt,	Heywood,	Strawberry,
Centre,	Hog,	Vankoughnet,
Clapperton,	Iroquois,	Vidal,
Club,	Little Cloche,	Wall,
Crescent,	Lonely,	Wardrope,
Duck,	Lucas,	Wells,
East Rous,	McGregor,	West Rous,
Fitzwilliam,	Philip Edward,	Yeo,
George,	Rabbit,	

together with all the remaining territory included within the following limits:

Commencing at the southeast corner of the Township of Humboldt; thence south astronomically forty miles; thence west astronomically to the International Boundary; thence northwesterly and northeasterly along the International Boundary to an angle therein in the North Channel of Lake Huron between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles south astronomically from the southwest extremity of Kenny Point of Innes Island; thence north 55° east astronomically five miles; thence east astronomically three miles; thence south 36° east astronomically five and one-half miles; thence northeasterly in a straight line to a point in the water's edge of the North Channel of Lake Huron at the intersection of the production southerly of the west boundary of the Township of Harrow; thence easterly and southerly following the water's edge of the said channel to the north boundary of the west part of the unsundered portion of the Whitefish River Indian Reserve No. 4; thence east along the said boundary and its production to the water's edge of the North Channel of Lake Huron; thence northerly, easterly and southerly following the said water's edge to the north boundary of the Township of Killarney; thence east along the north boundaries of the Townships of Killarney and Carlyle to the northeast corner of the last-mentioned Township; thence south along the east boundary of the Township of Carlyle to the northwest corner of the Township of Humboldt; thence east along the north boundary of the said Township to the northeast

corner thereof; thence south along the east boundary of the Township of Humboldt to the southeast corner thereof, the point of commencement.

Provisional  
Judicial  
District of  
Manitoulin

The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin.

Muskoka

#### 48.—THE TERRITORIAL DISTRICT OF MUSKOKA

consists of,

- (a) the towns of Bala, Bracebridge, Gravenhurst, Huntsville;
- (b) the villages of Port Carling, Port Sydney, Windermere;
- (c) the geographic townships of,

Baxter,	Macaulay,	Ridout,
Brunel,	McLean,	Ryde,
Cardwell,	Medora,	Sinclair,
Chaffey,	Monck,	Stephenson,
Draper,	Morrison,	Stisted,
Franklin,	Muskoka,	Watt,
Freeman,	Oakley,	Wood,
Gibson,		

together with the islands in the Georgian Bay lying west of the said territory and adjacent thereto, and the islands in the Severn River lying northerly of the middle of the main channel of the Severn River and adjacent to the Townships of Baxter, Wood and Morrison.

Provisional  
Judicial  
District of  
Muskoka

The Territorial District of Muskoka forms the Provisional Judicial District of Muskoka.

Nipissing

#### 49.—THE TERRITORIAL DISTRICT OF NIPISSING

consists of,

- (a) the City of North Bay;
- (b) the towns of Bonfield, Cache Bay, Mattawa, Sturgeon Falls;
- (c) the geographic townships of,

Airy,	Aston,	Bastedo,
Anglin,	Badgerow,	Beaucage,
Angus,	Ballantyne,	Belfast,
Antoine,	Banting,	Bertram,
Askin,	Barron,	Best,

Biggar,	FitzGerald,	Milne,
Bishop,	Flett,	Mulock,
Blyth,	French,	Murchison,
Bonfield,	Freswick,	Niven,
Boulter,	Garrow,	Notman,
Bower,	Gibbons,	Olive,
Boyd,	Gladman,	Olrig,
Briggs,	Gooderham,	Osborne,
Bronson,	Grant,	Osler,
Burnaby,	Guthrie,	Papineau,
Butler,	Hammell,	Pardo,
Butt,	Hartle,	Parkman,
Caldwell,	Hebert,	Paxton,
Calvin,	Hobbs,	Peck,
Cameron,	Hugel,	Pedley,
Canisbay,	Hunter,	Pentland,
Canton,	Joan,	Phelps,
Cassels,	Jocko,	Phyllis,
Chambers,	Kenny,	Postras,
Charlton,	Kirkpatrick,	Preston,
Chisholm,	La Salle,	Riddell,
Clancy,	Latchford,	Sabine,
Clarkson,	Lauder,	Scholes,
Clement,	Law,	Sisk,
Commanda,	Le Roche,	Springer,
Crerar,	Lister,	Sproule,
Cynthia,	Lockhart,	Stewart,
Dana,	Loudon,	Strathcona,
Deacon,	Lyell,	Strathy,
Devine,	Lyman,	Stratton,
Dickens,	Macpherson,	Thistle,
Dickson,	Master,	Torrington,
East Ferris,	Mattawan,	Vogt,
Eddy,	McAuslan,	West Ferris,
Edgar,	McCallum,	White,
Eldridge,	McCraney,	Widdifield,
Falconer,	McLaren,	Wilkes,
Fell,	McLaughlin,	Wyse,
Field,	McWilliams,	Yates,
Finlayson,	Merrick,	

together with all the remaining territory included within the following limits:

Commencing at the southeast angle of the Township of Falconer; thence west along the south boundary of the said Township to the southwest corner thereof; thence north astronomically to the northwest corner of the Township of Macpherson; thence east along the north boundary of the Township of Macpherson to the southwest corner of the

Township of Kirkpatrick; thence north astronomically to the northwest corner of the Township of Belfast; thence east along the north boundary of the Township of Belfast to the southwest corner of the Township of Le Roche; thence north along the west boundaries of the Townships of Le Roche and Canton to the northwest angle of the last-mentioned Township; thence east astronomically to the northeast corner of the Township of Best; thence south along the east boundaries of the Townships of Best and Cassels to the southeast corner of the last-mentioned Township; thence east along the north boundaries of the Townships of Eldridge and Hebert and its production easterly to the Interprovincial Boundary in Lake Timiskaming between Ontario and Quebec; thence along the said boundary southerly and southeasterly to the northeast angle of the Township of Cameron; thence southerly, westerly and southeasterly along the easterly boundaries of the Townships of Cameron and Deacon to the northwest angle of the Township of FitzGerald; thence easterly along the northerly boundary of the Township of FitzGerald to the northeast angle thereof; thence southerly along the easterly boundary of the Township of FitzGerald to the northwest angle of the Township of Edgar; thence easterly along the northerly boundary of the Township of Edgar to the northeast angle thereof; thence southerly along the easterly boundary of the Township of Edgar to the northwest angle of the Township of Bronson; thence easterly along the northerly boundary of the Township of Bronson to the northeast angle thereof; thence southerly along the easterly boundaries of the Townships of Bronson, Stratton and Master to the southeast angle of the last-mentioned Township; thence westerly along the southerly boundaries of the Townships of Master and Guthrie to the northeast angle of the Township of Dickens; thence southerly along the easterly boundary of the Township of Dickens to the southeast angle thereof; thence westerly along the southerly boundary of the Township of Dickens to the northeast angle of the Township of Lyell; thence southerly along the easterly boundary of the Township of Lyell to the southeast angle thereof; thence westerly along the southerly boundaries of the Townships of Lyell and Sabine to the southwest angle of the last-mentioned Township; thence northerly along the westerly boundaries of the Townships of Sabine and Airy to the northwest angle of the last-mentioned Township; thence westerly along the southerly boundaries of the Townships of Sproule, Canisbay, Peck and Finlayson to the southwest angle of the last-mentioned Township; thence northerly along the westerly boundary of the Township of Finlayson to the northwest angle thereof; thence easterly along the northerly boundary of the Township of Finlayson to the southwest angle of the Township of McCraney; thence northerly along the

westerly boundaries of the Townships of McCraney, Butt, Paxton and Ballantyne to the northwest angle of the last-mentioned Township; thence easterly along the northerly boundary of the Township of Ballantyne to the southwest angle of the Township of Chisholm; thence northerly along the westerly boundaries of the Townships of Chisholm and East Ferris to the southerly boundary of the Township of West Ferris; thence westerly along the southerly boundary of the Township of West Ferris to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the middle of the main channel of the French River south of and off the easterly end of Blueberry Island; thence southwesterly along the centre lines of the main channel of the French River and that channel of the French River to the north of Okikendawt Island to the production easterly of the south boundary of the Township of Latchford; thence west along the said production and continuing west along the south boundary of the Township of Latchford to the southeast angle of the Township of Falconer, the point of commencement.

The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing.

Provisional  
Judicial  
District of  
Nipissing

## 50.—THE TERRITORIAL DISTRICT OF PARRY SOUND

Parry Sound

consists of,

- (a) the towns of Kearney, Parry Sound, Powassan, Trout Creek;
- (b) the villages of Burk's Falls, Magnetawan, Rosseau, South River, Sundridge;
- (c) the geographic townships of,

Armour,	Hagerman,	Monteith,
Bethune,	Hardy,	Mowatt,
Blair,	Harrison,	Nipissing,
Brown,	Henvey,	North Himsworth,
Burpee,	Humphry,	Patterson,
Burton,	Joly,	Perry,
Carling,	Laurier,	Pringle,
Chapman,	Lount,	Proudfoot,
Christie,	Machar,	Ryerson,
Conger,	McConkey,	Shawanaga,
Cowper,	McDougall,	South Himsworth,
Croft,	McKellar,	Spence,
Ferguson,	McKenzie,	Strong,
Ferrie,	McMurrich,	Wallbridge,
Foley,	Mills,	Wilson,
Gurd,		

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Conger; thence easterly along the southerly boundaries of the Townships of Conger and Humphry to the southeast corner of the Township of Humphry; thence northerly along the easterly boundary of the Township of Humphry to the northeast corner of the said Township; thence easterly along the southerly boundaries of the Townships of Monteith, McMurrich, Perry and Bethune to the southeast corner of the last-mentioned Township; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier to the northeast angle of the last-mentioned Township; thence easterly along the southerly boundary of the Township of South Himsworth to the southeast angle thereof; thence northerly along the easterly boundaries of the Townships of North Himsworth and South Himsworth to the northeast angle of the last-mentioned Township; thence westerly along the northerly boundary of the Township of North Himsworth to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the centre of the main channel of the French River south of and off the easterly end of Blueberry Island; thence southwesterly along the centre lines of the main channel of the French River and that channel of the French River to the north of Okikendawt Island and along that channel of the French River that lies adjacent to the south boundaries of the Townships of Scollard, Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along said production to the water's edge of the said channel; thence southwesterly, westerly and southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay of Lake Huron to the west boundary of the Township of Travers; thence easterly and southerly along the northerly and easterly shores of Georgian Bay to the southwest angle of the Township of Conger, the point of commencement, and including all islands lying opposite to the said northerly and easterly shores of Georgian Bay.

Provisional  
Judicial  
District of  
Parry Sound

The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound.

Rainy River

## 51.—THE TERRITORIAL DISTRICT OF RAINY RIVER

consists of,

- (a) the towns of Fort Frances, Rainy River;
- (b) the geographic townships of,

Asmussen,	Freeborn,	Pratt,
Atwood,	Griesinger,	Ramsay Wright,
Aylsworth,	Halkirk,	Richardson,
Baker,	Hutchinson,	Roddick,
Barwick,	Kingsford,	Roseberry,
Bennett,	Lash,	Rowe,
Blue,	Mather,	Schwenger,
Burriss,	Mathieu,	Senn,
Carpenter,	McCaul,	Shenston,
Claxton,	McCrosson,	Sifton,
Croome,	McIrvine,	Spohn,
Crozier,	McLarty,	Sutherland,
Curran,	Menary,	Tait,
Dance,	Miscampbell,	Tanner,
Devlin,	Morley,	Tovell,
Dewart,	Morley Additional,	Trottier,
Dilke,	Morson,	Watten,
Dobie,	Nelles,	Weaver,
Farrington,	Pattullo,	Woodyatt,
Fleming,	Potts,	Worthington,

together with all the remaining territory included within the following limits:

Commencing where the westerly boundary of the District of Thunder Bay intersects the International Boundary between Canada and the United States of America in Saganaga Lake; thence due north along the said district boundary to the 48th mile post thereon in latitude 49° 0' 6" north; thence due west 89 miles, 71 chains, 7 links, more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the northeast angle of the Township of McLarty and continuing west along the north boundaries of the Townships of McLarty and Claxton and the westerly production thereof to the east shore of Sabaskong Bay of the Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary; thence southerly along the International Boundary to the mouth of the Rainy River; thence southeasterly and easterly up the Rainy River along the International Boundary to Rainy Lake; thence easterly, southerly and southeasterly following the International Boundary through Rainy Lake and the several lakes, rivers and portages along the International Boundary, to the place of beginning.

Provisional  
Judicial  
District of  
Rainy River

The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River.

Sudbury

## 52.—THE TERRITORIAL DISTRICT OF SUDBURY

consists of,

- (a) the City of Sudbury;
- (b) the towns of Capreol, Chelmsford, Coniston, Copper Cliff, Espanola, Levack, Lively, Massey, Webbwood;
- (c) the geographic townships of,

Abbey,	Biggs,	Cherriman,
Abney,	Bigwood,	Chester,
Acadia,	Biscotasi,	Chewett,
Acheson,	Blamey,	Churchill,
Addison,	Blewett,	Clary,
Admiral,	Blezard,	Cleland,
Afton,	Bonar,	Clifton,
Alcona,	Borden,	Cochrane,
Alcorn	Botha,	Collins,
Allen,	Bowell,	Collishaw,
Alton,	Brackin,	Comox,
Amyot,	Breadner,	Connaught,
Antrim,	Brebeuf,	Coppell,
Appleby,	Broder,	Copperfield,
Arbutus,	Browning,	Cortez,
Arden,	Brunswick,	Cosby,
Armagh,	Brutus,	Cosens,
Asquith,	Buckland,	Cotton,
Athlone,	Burrows,	Cox,
Attlee,	Burwash,	Craig,
Awrey,	Busby,	Creelman,
Aylmer,	Cabot,	Creighton,
Bader,	Caen,	Crockett,
Baldwin,	Calais,	Crothers,
Balfour,	Capreol,	Cunningham,
Baltic,	Carew,	Curtin,
Barclay,	Carter,	Dale,
Battersby,	Cartier,	D'Arcy,
Baynes,	Carty,	Davis,
Beaumont,	Cascaden,	de Gaulle,
Beemer,	Casimir,	Delamere,
Benneweis,	Cavell,	Delhi,
Benton,	Ceylon,	Delmage,
Beresford,	Chalet,	DeMorest,
Beulah,	Champagne,	Denison,
Bevin,	Chapleau,	Dennie,
Bigelow,	Chaplin,	Denyes,



DesRosiers,	Garson,	Inverness,
Dieppe,	Garvey,	Iris,
Dill,	Genoa,	Ivanhoe,
Dore,	Gilbert,	Ivy,
Dowling,	Gladwin,	Jack,
Drury,	Goschen,	Janes,
Dryden,	Gough,	Jasper,
Dublin,	Gouin,	Jennings,
Dunbar,	Graham,	Joffre,
Dundee,	Greenlaw,	Keith,
Dunlop,	Grigg,	Kelly,
Dunnet,	Groves,	Kelso,
Durban,	Haddo,	Kelvin,
Earl,	Haentschel,	Kemp,
Eden,	Hagar,	Kenogaming,
Edinburgh,	Halcrow,	Kilpatrick,
Edith,	Halifax,	Kitchener,
Eisenhower,	Hall,	Lackner,
Elizabeth,	Hallam,	La Fleche,
Ellis,	Halliday,	Lampman,
Emerald,	Halsey,	Lang,
Emo,	Hanmer,	Laura,
English,	Hardiman,	Leask,
Eric,	Harrow,	Leeson,
Ermatinger,	Hart,	Leinster,
Esther,	Harty,	Lemoine,
Ethel,	Hassard,	Levack,
Evans,	Hawley,	Lincoln,
Fairbairn,	Hazen,	Lipsett,
Fairbank,	Heenan,	Lloyd,
Falconbridge,	Hellyer,	Londonderry,
Faust,	Hendrie,	Lorne,
Fawcett,	Hennessy,	Loughrin,
Fawn,	Henry,	Louise,
Fingal,	Hess,	Lumsden,
Floranna,	Hill,	Macbeth,
Foleyet,	Hodgetts,	Mackelcan,
Foster,	Hoey,	MacIennan,
Foy,	Hong Kong,	Macmurchy,
Fraleck,	Hornell,	Mageau,
Frater,	Horwood,	Mallard,
Frechette,	Hoskin,	Manning,
Frey,	Howey,	Marconi,
Fulton,	Hubbard,	Margaret,
Gallagher,	Huffman,	Marion,
Gamey,	Hutt,	Marquette,
Gardhouse,	Hutton,	Marshall,
Garibaldi,	Hyman,	Marshay,
Garnet,	Invergarry,	Martland,

Mason,	Parkin,	Snider,
Mattagami,	Pattinson,	Somme,
May,	Paudash,	Sothman,
McBride,	Paul,	Stalin,
McCarthy,	Penhorwood,	Stetham,
McConnell,	Peters,	Stobie,
McGee,	Pinogami,	Stover,
McKim,	Porter,	Stralak,
McKinnon,	Potier,	Strathearn,
McLeod,	Racine,	Street,
McNamara,	Ramsden,	Struthers,
McNaught,	Raney,	Stull,
McNish,	Rathbun,	Swayze,
McOwen,	Ratter,	Sweeny,
McPhail,	Rayside,	Telfer,
Melrose,	Reeves,	Tilton,
Merritt,	Regan,	Togo,
Middleboro,	Rennie,	Tooms,
Miramichi,	Rhodes,	Topham,
Missinaibi,	Roberts,	Totten,
Moffat,	Roblin,	Travers,
Moher,	Rollo,	Trill,
Moncrieff,	Roosevelt,	Triquet,
Mond,	Sadler,	Truman,
Mongowin,	St. Louis,	Turner,
Morgan,	Sale,	Tyrone,
Morse,	Salter,	Ulster,
Mountbatten,	Sandy,	Unwin,
Muldrew,	Scadding,	Valin,
Munster,	Scollard,	Vernon,
Murdock,	Scotia,	Vrooman,
Muskego,	Seagram,	Wakami,
Nairn,	Secord,	Waldie,
Natal,	Selby,	Warren,
Neelon,	Selkirk,	Waters,
Neville,	Semple,	Westbrook,
Newton,	Servos,	Whalen,
Nimitz,	Sewell,	Whigham,
Noble,	Shakespeare,	Wigle,
Norman,	Sheard,	Wisner,
Northrup,	Shelburne,	Yeo,
Nurse,	Shelley,	Zavitz,
Oates,	Shenango,	Tp. 6,
Ogilvie,	Sheppard,	Tp. 7,
Onaping,	Sherlock,	Tp. 8,
Oswald,	Silk,	Tp. 8A,
Osway,	Singapore,	Tp. 8B,
Panet,	Sladen,	Tp. 8C,
Parker,	Smuts,	Tp. 8D,

Tp. 8E,	Tp. 10H,	Tp. 22, Range 20,
Tp. 8F,	Tp. 11B,	Tp. 23, Range 15,
Tp. 8G,	Tp. 11C,	Tp. 23, Range 16,
Tp. 8H,	Tp. 11D,	Tp. 23, Range 17,
Tp. 8Z,	Tp. 11E,	Tp. 23, Range 18,
Tp. 9,	Tp. 11F,	Tp. 23, Range 19,
Tp. 9A,	Tp. 11G,	Tp. 23, Range 20,
Tp. 9B,	Tp. 11H,	Tp. 23, Range 23,
Tp. 9C,	Tp. 12,	Tp. 28,
Tp. 9D,	Tp. 12E,	Tp. 29,
Tp. 9E,	Tp. 12F,	Tp. 32,
Tp. 9F,	Tp. 12G,	Tp. 35,
Tp. 9G,	Tp. 12H,	Tp. 36,
Tp. 9H,	Tp. 13G,	Tp. 37,
Tp. 9Z,	Tp. 13H,	Tp. 44,
Tp. 10A,	Tp. 19,	Tp. 107,
Tp. 10B,	Tp. 22,	Tp. 108,
Tp. 10C,	Tp. 22, Range 15,	Tp. 114,
Tp. 10D,	Tp. 22, Range 16,	Tp. 115,
Tp. 10E,	Tp. 22, Range 17,	Tp. 118,
Tp. 10F,	Tp. 22, Range 18,	Tp. 119,
Tp. 10G,	Tp. 22, Range 19,	Tp. 120,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Harrow; thence northerly and westerly along the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southwest corner of the said Township; thence north along the west boundary of the Township of Salter to the northwest corner thereof; thence east along the north boundary of the Township of Salter to the northeast corner of the said Township; thence north astronomically to the northwest corner of Township 120; thence east along the north boundary of the said Township to the northeast corner thereof; thence north astronomically to the northwest corner of the Township of Dennie; thence west astronomically to the southwest corner of the Township of Comox; thence north astronomically to the southwest corner of the Township of Hubbard; thence west astronomically to the southwest corner of Township 23, Range 15; thence north astronomically to the northwest corner of the Township of Cosens; thence west along the south boundary of Township 23, Range 23, to the southwest corner thereof; thence north astronomically to the northwest corner of the Township of Rennie; thence east astronomically to the northeast corner of the Township of Frey; thence south

astronomically to the northwest corner of the Township of Crothers; thence east astronomically to the northeast corner of the Township of Zavitz; thence south astronomically to the northwest corner of the Township of Stull; thence east astronomically to the northeast corner of the Township of Sladen; thence south astronomically to the southeast corner of the Township of Delhi; thence west along the south boundary of the Township of Delhi to the northeast corner of the Township of Armagh; thence south astronomically to the southeast corner of the Township of Dunnet; thence west along the south boundary of the Township of Dunnet to the northeast corner of the Township of Casimir; thence south astronomically to the southeast corner of the Township of Martland; thence east along the north boundary of the Township of Scollard and its production easterly to the centre line of the channel of the French River to the north of Okikendawt Island; thence southwesterly along the centre line of the said channel of the French River that lies adjacent to the south boundaries of the Townships of Scollard, Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along the said production to the water's edge of the said channel; thence southwesterly, westerly and southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay to the west boundary of the Township of Travers; thence north along the west boundaries of the Townships of Travers and Kilpatrick to the northwest corner of the last-mentioned Township; thence west along the south boundary of the Township of Sale to the southwest corner thereof; thence north along the west boundary of the Township of Sale to the southeast corner of the Township of Goschen; thence west along the south boundaries of the Townships of Goschen, Stalin, Roosevelt and Curtin to the water's edge of the North Channel of Lake Huron; thence northerly, westerly and southerly following the said water's edge to its intersection with the production easterly of the north boundary of the west part of the unsundered portion of the Whitefish Indian Reserve No. 4; thence west along the said production and continuing west along the said north boundary to the water's edge of the North Channel of Lake Huron; thence northerly and westerly along the said water's edge to its intersection with the production southerly of the west boundary of the Township of Harrow; thence north along the said production to the southwest corner of the Township of Harrow, the point of commencement.

# 53.—THE TERRITORIAL DISTRICT OF THUNDER <sup>Thunder</sup> BAY <sup>Bay</sup>

consists of,

- (a) the cities of Fort William, Port Arthur;
- (b) the Town of Geraldton;
- (c) the geographic townships of,

Abrey,	Dye,	Houck,
Adamson,	Elmhirst,	Innes,
Adrian,	Errington,	Inwood,
Aldina,	Esnagami,	Irwin,
Alpha,	Eva,	Jacques,
Ames,	Exton,	Jean,
Ashmore,	Fallis,	Joynt,
Atikameg,	Fauteux,	Jutten,
Bain,	Fernow,	Kilkenny,
Barbara,	Fletcher,	Kirby,
Bégin,	Flood,	Kitto,
Bell,	Foote,	Klotz,
Benner,	Forbes,	Knowles,
Bertrand,	Fowler,	Kowkash,
Bickle,	Fraleigh,	Lamport,
Blackwell,	Fulford,	Langworthy,
Blake,	Furlonge,	Lapierre,
Booth,	Gemmell,	Laurie,
Boucher,	Gertrude,	Ledger,
Bryant,	Gibbard,	Leduc,
Bulmer,	Gillies,	Legault,
Byron,	Glen,	Leslie,
Cecil,	Goldie,	Lindsley,
Cecile,	Golding,	Lismore,
Chevrier,	Goodfellow,	Low,
Church,	Gorham,	Lybster,
Cockeram,	Goulet,	Lyon,
Colliver,	Graydon,	MacGregor,
Colter,	Grenville,	Manion,
Coltham,	Gzowski,	Mapledoram,
Conacher,	Hagey,	Marks,
Conant,	Haines,	McComber,
Conmee,	Hanniwell,	McCubbin,
Croll,	Hardwick,	McGill,
Crooks,	Hartington,	McGillis,
Daley,	Heathcote,	McIntyre,
Danford,	Hele,	McIvor,
Davies,	Herbert,	McKelvie,
Devon,	Hipel,	McLaurin,
Dorion,	Hogarth,	McMaster,
Dorothea,	Homer,	McQuesten,
Duckworth,	Horne,	McTavish,

Meador,	Pyramid,	Walters,
Meinzingler,	Rickaby,	Ware,
Michener,	Robbins,	Tp. 70,
Mikano,	Robertta,	Tp. 71,
Moss,	Robson,	Tp. 72,
Nakina,	Rupert,	Tp. 73,
Neebing,	Sackville,	Tp. 74,
Nickle,	Salsberg,	Tp. 75,
Nipigon,	Sandra,	Tp. 76,
Oakes,	Savanne,	Tp. 77,
Oboshkegan,	Savant,	Tp. 78,
O'Connor,	Scoble,	Tp. 79,
Oliver,	Shabotik,	Tp. 80,
O'Meara,	Sibley,	Tp. 81,
Paipoonge,	Smye,	Tp. 82,
Pardee,	Soper,	Tp. 83,
Parent,	Spooner,	Tp. 84,
Parry,	Stedman,	Tp. 85,
Paska,	Stirling,	Tp. 86,
Patrick,	Strange,	Tp. 87,
Pearson,	Summers,	Tp. 88,
Pic,	Trewartha,	Tp. 89,
Pifher,	Upsala,	Tp. 90,
Poisson,	Vincent,	Tp. 91,
Purdom,	Vivian,	Tp. 92,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence south along O.L.S. Niven's meridian line of 1907 to the southerly extremity thereof; thence continuing south along O.L.S. Speight's meridian line of 1902 to the shore of Lake Superior; thence south astronomically to the International Boundary; thence northwesterly, southwesterly and westerly following the International Boundary to a point in Saganaga Lake where the said boundary is intersected by the southerly production of O.L.S. Niven's meridian line of 1890; thence due north along the said production and continuing along O.L.S. Niven's meridian line of 1890 and the northerly production of the said line, as surveyed by O.L.S. Dobie in 1919 to the centre of the main channel of the waters of Lake St. Joseph; thence northeasterly along the centre of the main channel of Lake St. Joseph and the Albany River, and the expansions thereof, to the intersection of the northerly production of the meridian surveyed by O.L.S. Speight and van Nostrand in 1925; thence south along the said production and continuing along the meridian run by O.L.S. Speight and van Nostrand in 1925 to the northwest corner of the Township of Bain; thence east astronomically to the northeast corner

of the Township of Bell; thence south along the western boundary of the Townships of Boyce and Clavet to the south-west corner of the Township of Clavet, the point of commencement.

The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay.

Provisional  
Judicial  
District of  
Thunder  
Bay

#### 54.—THE TERRITORIAL DISTRICT OF TIMISKAMING

Timis-  
kaming

consists of,

- (a) the towns of Charlton, Cobalt, Englehart, Haileybury, Latchford, New Liskeard;
- (b) the Village of Thornloe;
- (c) the geographic townships of,

Adams,	Charters,	Gross,
Alma,	Childerhose,	Harley,
Argyle,	Chown,	Harris,
Armstrong,	Cleaver,	Haultain,
Arnold,	Clifford,	Hearst,
Auld,	Cole,	Henwood,
Baden,	Coleman,	Hillary,
Banks,	Corkill,	Hilliard,
Bannockburn,	Corley,	Hincks,
Barber,	Dack,	Holmes,
Barr,	Dane,	Hudson,
Bartlett,	Davidson,	Ingram,
Bayly,	Denton,	James,
Beauchamp,	Donovan,	Katrine,
Ben Nevis,	Doon,	Keefer,
Benoit,	Douglas,	Kerns,
Bernhardt,	Doyle,	Kimberley,
Bisley,	Dufferin,	Kittson,
Black,	Dunmore,	Klock,
Blackstock,	Dymond,	Knight,
Blain,	Eby,	Langmuir,
Bompas,	Eldorado,	Lawson,
Boston,	Evanturel,	Lebel,
Brethour,	Fallon,	Leckie,
Brewster,	Farr,	Lee,
Brigstocke,	Fasken,	Leith,
Bryce,	Firstbrook,	Leo,
Bucke,	Flavelle,	Leonard,
Burt,	Fripp,	Lorrain,
Cairo,	Gamble,	Lundy,
Cane,	Gauthier,	Maisonville,
Casey,	Geikie,	Marquis,
Catharine,	Gillies Limit,	Marter,
Chamberlain,	Grenfell,	McArthur,

McElroy,	North Williams,	Shillington,
McEvay,	Ossian,	Skead,
McFadden,	Otto,	Smyth,
McGarry,	Pacaud,	South Lorrain,
McGiffin,	Pense,	Speight,
McKeown,	Pharand,	Teck,
McNeil,	Pontiac,	Terry,
McVittie,	Powell,	Thorneloe,
Medina,	Price,	Timmins,
Melba,	Rankin,	Tolstoi,
Michie,	Ratray,	Trethewey,
Mickle,	Ray,	Truax,
Midlothian,	Raymond,	Tudhope,
Milner,	Reynolds,	Tyrrell,
Montrose,	Roadhouse,	Van Hise,
Morel,	Robertson,	van Nostrand,
Morrisette,	Robillard,	Wallis,
Mulligan,	Rorke,	Whitson,
Musgrove,	Savard,	Willet,
Nicol,	Sharpe,	Willison,
Nordica,	Sheba,	Yarrow,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of South Lorrain; thence north along the west boundary of the said Township to the northwest corner thereof; thence west astronomically to the southeast corner of the Township of Brigstocke and continuing west along the south boundaries of Brigstocke, Cole and Medina to the southwest corner of the last-mentioned Township; thence north along the west boundary of the Township of Medina to the northwest corner thereof; thence west astronomically to the southwest corner of the Township of Dufferin; thence north astronomically to the southeast corner of the Township of Geikie; thence west astronomically to the southwest corner of the Township of Pharand; thence north along the west boundaries of the Townships of Pharand, Hillary and Keefer to the northwest corner of the last-mentioned Township; thence east astronomically to the Interprovincial Boundary between Ontario and Quebec; thence south and southerly along the Interprovincial Boundary to a point on the production easterly of the south boundary of the Township of South Lorrain; thence west along the said production and continuing along the south boundary of the Township of South Lorrain to the southwest corner thereof, the point of commencement.

The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming. R.S.O. 1950, c. 388, s. 1; 1952, c. 106, s. 1; 1954, c. 95, s. 1; 1960, c. 121, s. 1.



2. In addition to the municipalities mentioned in section 1 as being included in the territorial districts, such districts also include the municipalities listed hereunder:

Additional  
municipali-  
ties in terri-  
torial  
districts

### 1.—THE TERRITORIAL DISTRICT OF ALGOMA

Algoma

includes,

(a) the improvement districts of Elliot Lake,  
White River;

(b) the townships of,

Day and Bright	Macdonald and	Tarbutt and Tar-
Additional,	Meredith,	butt Additional,
Hilton,	Michipicoten,	Tarentorus,
Jocelyn,	Plummer	Thessalon,
Johnson,	Additional,	Thompson,
Korah,	Prince,	Wicksteed.
Laird,	St. Joseph,	

### 2.—THE TERRITORIAL DISTRICT OF COCHRANE

Cochrane

includes,

(a) the improvement districts of Kingham (part), Val  
Albert;

(b) the townships of,

Calvert,	Mountjoy,	Tisdale,
Fauquier,	Playfair,	Whitney,
Glackmeyer,	Shackleton and	Black River.
Kendrey,	Machin,	

### 3.—THE TERRITORIAL DISTRICT OF KENORA

Kenora

includes,

(a) the improvement districts of Balmertown, Sioux  
Narrows;

(b) the townships of,

Ignace,	Machin,
Jaffray and Melick,	Red Lake.

### 4.—THE TERRITORIAL DISTRICT OF MANITOULIN

Manitoulin

includes the townships of,

Assiginack,	Carnarvon,	Rutherford and
Barrie Island,	Cockburn Island,	George Island,
Billings and part	Gordon and part	Sandfield,
of Allan,	of Allan,	Tehkummah.
Burpee,	Howland,	

Muskoka

## 5.—THE TERRITORIAL DISTRICT OF MUSKOKA

includes the townships of,

Brunel,	Macaulay,	Oakley,
Cardwell,	McLean,	Ridout,
Chaffey,	Medora and Wood,	Ryde,
Draper,	Monck,	Stephenson,
Franklin,	Morrison,	Stisted,
Freeman,	Muskoka,	Watt.

Nipissing

## 6.—THE TERRITORIAL DISTRICT OF NIPISSING

includes,

(a) the Improvement District of Cameron;

(b) the townships of,

Bonfield,	East Ferris,	Springer,
Caldwell,	Field,	West Ferris,
Calvin,	Mattawan,	Widdifield.
Chisholm,	Papineau,	

Parry Sound

7.—THE TERRITORIAL DISTRICT OF  
PARRY SOUND

includes the townships of,

Armour,	Humphry,	Nipissing,
Carling,	Joly,	North Himsworth,
Chapman,	Machar,	Perry,
Christie,	McDougall,	Ryerson,
Foley,	McKellar,	South Himsworth,
Hagerman,	McMurrich,	Strong.

Rainy River

8.—THE TERRITORIAL DISTRICT OF  
RAINY RIVER

includes,

(a) the Improvement District of Kingsford;

(b) the townships of,

Alberton,	Dilke,	Morley and
Atikokan,	Emo,	Patullo,
Atwood,	Lavallee,	Morson,
Blue,	McCrosson and	Worthington.
Chapple,	Tovell,	

Sudbury

## 9.—THE TERRITORIAL DISTRICT OF SUDBURY

includes,

(a) the improvement districts of Onaping, Renabie;

(b) the townships of,

Baldwin,	Dowling,	Neelon and
Balfour,	Drury, Denison	Garson,
Bleazard,	and Graham,	Ratter and
Capreol,	Falconbridge,	Dunnet,
Casimir, Jennings	Hagar,	Rayside,
and Appleby,	Hallam,	Salter, May and
Chapleau,	Hanmer,	Harrow,
Cosby, Mason and	Nairn,	Waters.
Martland,		

#### 10.—THE TERRITORIAL DISTRICT OF THUNDER BAY

Thunder  
Bay

includes,

(a) the improvement districts of Beardmore, Dorion, Longlac, Manitouwadge, Marathon, Nakina, Red Rock;

(b) the townships of,

Conmee,	O'Connor,	Shuniah,
Gillies,	Oliver,	Terrace Bay.
Neebing,	Paipoonge,	
Nipigon,	Schreiber,	

#### 11.—THE TERRITORIAL DISTRICT OF TIMISKAMING

Timis-  
kaming

includes,

(a) the improvement districts of Gauthier, Kingham (part), McGarry;

(b) the townships of,

Armstrong,	Dack,	Hudson,
Brethour,	Dymond,	James,
Bucke,	Evanturel,	Kerns,
Casey,	Harley,	Larder Lake,
Chamberlain,	Harris,	Matachewan,
Coleman,	Hilliard,	Teck.

R.S.O. 1950, c. 388, s. 2; 1952, c. 106, s. 2; 1954, c. 95, s. 2; 1960, c. 121, s. 2.

**3.** Notwithstanding the express mention herein of certain municipalities as being included in certain counties and districts, every such county and district includes any other municipality situate within the limits thereof. R.S.O. 1950, c. 388, s. 3.

Inclusion of  
municipali-  
ties although  
not men-  
tioned

## UNITED COUNTIES, ETC.

United  
counties

**4.—(1)** For municipal, judicial and all purposes not otherwise provided for by law, the following counties continue to form unions of counties:

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;
3. Northumberland and Durham;
4. Prescott and Russell.

Courts,  
offices and  
institutions

(2) Each of such unions of counties under the name of the United Counties of.....and.....(*naming them*), for all purposes, so long as such counties remain united, have in common, as if one county, all courts, offices and institutions established by law, pertaining to counties. R.S.O. 1950, c. 388, s. 4.

Cities and  
towns

**5.** For judicial purposes every city is united to and forms part of the county within the limits whereof it is situate; but for municipal purposes such cities, and all towns and other municipalities withdrawn from the jurisdiction of the county, do not form part of the counties in which they are respectively situate. R.S.O. 1950, c. 388, s. 5.

BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND  
RIVERSLimits of  
townships  
bounded by  
certain lakes  
and rivers

**6.—(1)** Except as provided in subsections 2 and 3 the limits of all the townships lying on the St. Lawrence River, Lake Ontario, Niagara River, Lake Erie, the Detroit River, Lake St. Clair, the St. Clair River, Lake Huron (not including the Georgian Bay), the St. Mary River and Lake Superior (not including Thunder Bay, Black Bay and Nipigon Bay), extend to the boundary of the Province in such lake or river; in prolongation of the outlines of each township respectively; and unless otherwise provided herein, such townships also include all the islands the whole or the greater part of which are comprised within the said outlines so prolonged.

Exception

(2) Subsection 1 does not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of the County of York produced southerly to the International Boundary, but in that part the limits of all townships on either side of the Lake extend to a line drawn from the intersection of the east boundary of the County of York produced with the International Boundary, westerly to the old outlet of Hamilton Harbour.

(3) Subject to *The Provincial Parks Act*, the Township of South Walsingham includes the whole of Long Point. R.S.O. 1960, c. 314  
1950, c. 388, s. 6.

7. The limits of the townships lying on the Ottawa River in like manner extend to the boundary between Ontario and Quebec. R.S.O. 1950, c. 388, s. 7. Limits of townships on the Ottawa

8. The limits of the townships in the County of Glengarry in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the St. Lawrence River, and unless otherwise provided herein, also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged. R.S.O. 1950, c. 388, s. 8. Limits of townships in Glengarry

9.—(1) The limits of the townships on the Bay of Quinte, the Georgian Bay, Thunder Bay, Black Bay and Nipigon Bay, the Trent River and its lakes, Lake Simcoe, the Severn River, the Rideau River and its lakes, the Thames River, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, in like manner extend to the middle of such lakes and bays, and to the middle of the main channels of such rivers respectively, and unless otherwise provided herein, also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged. Limits of townships on Bay of Quinte and on other bays, lakes and rivers

(2) Notwithstanding subsection 1,

Exceptions

(a) the extended east limit of the Township of Carling and the extended west limit of the Township of McDougall in the waters of Parry Sound are defined by a line drawn south 20° 52' east astronomically from the southeast corner of Lot 6, Concession 10 in the Township of Carling; and

(b) the extended south limits of the Townships of McDougall and Carling and the extended north limit of the Township of Cowper in the waters of Parry Sound and the Georgian Bay are defined by a line drawn south 69° 8' west astronomically from the southwest corner of the Township of McDougall,

and the Townships of Carling, McDougall and Cowper include every island the whole or the greater part of which is included within the limits of such townships as so defined.

(3) Notwithstanding subsection 1, the extended south limit of the Township of Baxter and the eastern portion of the extended north limit of the Township of Tay in the waters Idem

of the Georgian Bay from the mouth of the Severn River are defined as follows:

Commencing at a point in the waters of the Georgian Bay distant 94 chains, measured on a course of south  $20^{\circ} 52'$  east from the northeast corner of Lot 31, Concession 2, in the Township of Baxter; thence north  $80^{\circ}$  west astronomically 109 chains more or less to a point in a line drawn south astronomically from the southwestern extremity of Potato Island; thence west astronomically 210 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Tay and the Township of Baxter;

Again commencing at the said point of commencement; thence north  $62^{\circ}$  east astronomically 40 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Baxter and the Township of Tay, thence northerly and westerly following the midway line between the mainland of the Township of Baxter and the Township of Tay to the intersection with the centre of the main channel of the Severn River at the mouth of the Severn River,

and the Townships of Baxter and Tay include every island the whole or the greater part of which is included within the limits of such townships as so defined. R.S.O. 1950, c. 388, s. 9.

Savings as to islands being townships of themselves, etc.

**10.** Sections 6, 7, 8 and 9 do not extend to any islands or parts of islands that are townships by themselves, or that have been expressly included in other townships in the original surveys and plans thereof remaining of record in the office of the Minister of Lands and Forests or by statute, but the same remain townships or parts of such other townships respectively. R.S.O. 1950, c. 388, s. 10.

Where doubt exists as to township in which any land lies  
R.S.O. 1960, c. 251

**11.** Notwithstanding sections 6, 7, 8 and 9, where doubt exists as to the township in which an island or other tract of land or lands covered with water lies, the Ontario Municipal Board upon application under *The Municipal Corporations Quieting Orders Act* may declare the township in which the same lies. 1956, c. 88, s. 1.

#### POWERS OF LIEUTENANT GOVERNOR IN COUNCIL

Powers of Lieutenant Governor in Council

**12.** The Lieutenant Governor in Council may,

- (a) establish geographic townships in those parts of Ontario in which townships have not been con-

stituted, and declare the name each shall bear and fix the boundaries thereof;

- (*b*) alter the boundaries of any territorial district or provisional judicial district;
  - (*c*) when no letters patent have been issued granting lands in a township, alter the boundaries or change the name thereof;
  - (*d*) annex any gore or tract of land not forming part of a township to any adjoining township or parts of such gore or tract of land to townships adjoining such parts. R.S.O. 1950, c. 388, s. 11, cls. (*a-d*).
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## CHAPTER 396

## The Theatres Act

## 1. In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Censors appointed under this Act;
- (b) "Director" means the Director appointed under this Act;
- (c) "film" means moving picture film 16 millimetres or more in width;
- (d) "film depot" means any building or premises in which film is assembled for shipment;
- (e) "film exchange" means a 16-millimetre film exchange or a standard film exchange;
- (f) "inspector" means an inspector appointed under this Act;
- (g) "Minister" means the Minister of Travel and Publicity;
- (h) "projection equipment" means projectors, generators, rectifiers, rheostats, rewinding and revising apparatus, sound equipment and any other apparatus or equipment used in connection with the projection of moving pictures;
- (i) "projection room" means the room in which the projectors and sound equipment are installed and includes the rewind room, generator room and toilet room directly connected with or adjacent to the room in which the projector and sound equipment are installed;
- (j) "projectionist" means a person who operates a projector;
- (k) "projector" means any type of machine used for the projection of moving pictures;
- (l) "reel" means 1,000 feet or less in length of standard film or 400 feet or less in length of film 16 millimetres in width;

- (*m*) "regulations" means the regulations made under this Act;
- (*n*) "16-millimetre film exchange" means the business of renting, leasing, selling or distributing film 16 millimetres in width;
- (*o*) "standard film" means film 35 millimetres or more in width;
- (*p*) "standard film exchange" means the business of renting, leasing, selling or distributing standard film;
- (*q*) "Treasurer" means the Treasurer of Ontario. 1953, c. 104, s. 1; 1959, c. 100, s. 1.

Director

**2.—(1)** The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act and the regulations and he has all the powers of an inspector.

Assistant  
Director

(2) The Lieutenant Governor in Council may appoint an Assistant Director who shall act in lieu of the Director,

- (*a*) in the absence of the Director; or
- (*b*) when so instructed to act by the Director,

and when so acting has all the powers of the Director. 1953, c. 104, s. 2.

Board

**3.—(1)** There shall be a board known as the Board of Censors consisting of the Director who shall be chairman of the Board and the Assistant Director who shall be vice-chairman of the Board and such other persons as the Lieutenant Governor in Council may appoint.

Powers

(2) The Board has power,

- (*a*) to censor any film and, when authorized by the person who submits film to the Board for approval, remove by cutting or otherwise from the film any portion thereof that it does not approve of for exhibition in Ontario;
- (*b*) subject to the regulations, to approve, prohibit or regulate the exhibition of any film in Ontario;
- (*c*) to censor any advertising matter in connection with any film or the exhibition thereof;
- (*d*) subject to the regulations, to approve, prohibit or regulate advertising in Ontario in connection with any film or the exhibition thereof;
- (*e*) to classify any film as adult entertainment; and

- (f) to carry out its duties under this Act and the regulations.

(3) The Board may designate one or more of its members <sup>idem</sup> to exercise the powers of the Board under clauses *c* and *d* of subsection 2 and in the exercise of such powers the member or members so designated have a right of entry to any theatre. 1953, c. 104, s. 3.

4.—(1) The Lieutenant Governor in Council may appoint <sup>Inspectors</sup> one or more inspectors who shall carry out such duties as may be assigned to them by this Act or the regulations or by the Director.

- (2) It is the duty of an inspector and he has power, <sup>Powers and duties</sup>

- (a) to inspect theatres, buildings or premises occupied by film exchanges, projectors and film;
- (b) to supervise projectionist's examinations and tests;
- (c) to prohibit the use or exhibition of any film that in his opinion is not safe;
- (d) to prohibit the use of any projector installed or operated contrary to this Act or the regulations;
- (e) to seize any projector installed or operated, or any film used or exhibited, contrary to this Act or the regulations;
- (f) in the performance of his duties to enter any theatre or any building or premises occupied by a film exchange or any building or premises other than a theatre in which standard film is used to exhibit moving pictures. 1953, c. 104, s. 4.

5. The Director may require any person having in his possession or under his control films that have been approved by the Board to make a return to the Director showing the number and names of such films and any other information he may require. 1953, c. 104, s. 5. <sup>Returns to be made to Director</sup>

6. Any projector or film seized by an inspector under this Act shall be disposed of as directed by the Minister. 1953, c. 104, s. 6; 1959, c. 100, s. 2. <sup>Disposal of seized projector or film</sup>

7. No person shall obstruct the Director, Assistant Director, a member of the Board or an inspector in the performance of his duties or furnish him with false information. 1953, c. 104, s. 7. <sup>Obstruction of inspector</sup>

Police  
officers,  
power of  
entry

**8.**—(1) Every constable and other police officer in the performance of his duties may enter any theatre during an exhibition or performance.

Fire  
Marshal,  
etc.

R.S.O. 1960,  
c. 148

(2) The Fire Marshal, Deputy Fire Marshal and every district deputy fire marshal, inspector or assistant to the Fire Marshal, appointed or designated under *The Fire Marshals Act*, may enter and inspect any theatre. 1953, c. 104, s. 8.

Issue of  
licences

**9.** All licences and renewals thereof under this Act shall be issued by the Director. 1953, c. 104, s. 9.

Licensee  
to be  
British  
subject,  
etc.

**10.** No licence shall be issued under this Act to an unincorporated person unless such person,

(a) is a British subject; or

(b) has lived in Canada for one year or longer and has filed a declaration of his intention to become a Canadian citizen under the *Canadian Citizenship Act* (Canada). 1953, c. 104, s. 10.

R.S.C. 1952,  
c. 33

#### THEATRES

Classifi-  
cation of  
theatres

**11.** Theatres are classified and defined as follows:

1. Class A theatre means a building in which standard film is used to exhibit moving pictures and which may be used to exhibit shows and theatrical performances.
2. Class B theatre means a building in which standard film is used to exhibit moving pictures and which may be used to exhibit shows or theatrical performances providing no moveable scenery is used.
3. Class C theatre means a building in which standard film is used to exhibit moving pictures but which may not be used to exhibit shows or theatrical performances.
4. Class D theatre means any premises in which moving pictures are exhibited and viewed by the public from vehicles and commonly known as a drive-in theatre. 1953, c. 104, s. 11.

Theatre  
licence  
required

**12.** No person shall use any building as a Class A, Class B or Class C theatre without a licence therefor under this Act and no person shall use any premises as a Class D theatre without a licence therefor under this Act. 1953, c. 104, s. 12.

Application  
for licence

**13.** Every application for a theatre licence or a renewal thereof shall be accompanied by the prescribed fee. 1953, c. 104, s. 13.

**14.** Every theatre licence expires on the 31st day of March <sup>Term of licence</sup> in each year unless renewed on or before that day. 1953, c. 104, s. 14.

**15.** No theatre licence shall be issued until the theatre <sup>Condition to issue of licence</sup> and the building in which the theatre is located conform to this Act and the regulations and have been approved by an inspector. 1953, c. 104, s. 15.

**16.** Every theatre licence is subject to the condition that <sup>Sunday performances</sup> no exhibition or performance shall be given or permitted to be given on a Sunday. 1953, c. 104, s. 16.

**17.** The Director may suspend or cancel a theatre licence, <sup>Suspension or cancellation of licence</sup>

- (a) if the licensee or manager of the theatre contravenes any of the provisions of this Act or the regulations;  
or
- (b) if in the opinion of the Director the theatre is not safe to be operated as a theatre;

but no licence shall be suspended or cancelled until the licensee has been afforded an opportunity to appear before the Director to show cause why the licence should not be suspended or cancelled. 1953, c. 104, s. 17.

**18.** Every theatre licence shall be displayed at all times <sup>Display of licence</sup> in a conspicuous place at the entrance to the theatre. 1953, c. 104, s. 18.

**19.** No municipality shall,

<sup>Municipal licence</sup>

- (a) license a theatre unless a licence therefor is in force under this Act;
- (b) refuse to license a theatre when a licence therefor is in force under this Act; or
- (c) charge a greater fee for licensing a theatre than that charged for a theatre licence under this Act in respect of the same theatre. 1953, c. 104, s. 19.

**20.** The licensee or, in his absence, the manager of a <sup>Duty of licensee or manager</sup> theatre shall, before each exhibition or performance, ensure that the provisions of this Act and the regulations respecting theatres are complied with. 1953, c. 104, s. 20.

**21.** No projector shall be operated in a theatre unless <sup>Projector, approval</sup> the projection equipment is installed in conformity with this Act and the regulations and has been approved by an inspector. 1953, c. 104, s. 21.

Standing  
areas

**22.**—(1) All aisles, approaches, passageways, exits and stairways in a theatre shall be kept free and unobstructed and the public shall not be permitted to stand therein except in standing areas approved by the Director.

Approval

(2) The licensee of every theatre shall submit a plan of the foyer and lobby of the theatre, in triplicate, to the Director who shall indicate on the plan the standing areas approved by him and shall return one copy of the plan to the licensee.

Keeping of  
plan in  
manager's  
office

(3) A copy of every plan showing the standing areas approved by the Director shall be kept in the office of the manager in the theatre in respect of which the plan was submitted and shall be available for inspection at all times. 1953, c. 104, s. 22.

Persons  
under 14  
years attend-  
ing theatres

**23.**—(1) No person under fourteen years of age not accompanied by a person eighteen years or more of age shall attend or be permitted to attend an exhibition of moving pictures in a theatre,

(a) after the hour of 6 p.m. on any day;

(b) during the school term of public and high schools in the municipality in which the theatre is situated except,

(i) during school holidays between the hours of 9 a.m. and 6 p.m., and

(ii) during any other day during the term between the hours of 4 p.m. and 6 p.m.

Matron

(2) Where an exhibition of moving pictures is given in a theatre and persons under fourteen years of age not accompanied by persons eighteen years or more of age are permitted to attend, a matron shall be on duty in the theatre.

Idem

(3) Every matron shall be eighteen years or more of age and dressed in a uniform of a type approved by the Director. 1953, c. 104, s. 23.

Fire, panic,  
etc.

**24.**—(1) Where a fire, panic or accident occurs in a theatre, the licensee or, in his absence, the manager shall immediately notify the Director thereof by telephone or telegraph and, except in the case of a fire confined to the projection room, shall forthwith notify him in writing stating the apparent cause of the fire, panic or accident and any damage or injury resulting therefrom.

Fire in  
projection  
room

(2) In the case of a fire confined to a projection room, the projectionist in charge of the projection room shall forthwith notify the Director in writing stating the apparent cause of

the fire and any damage or injury resulting therefrom. 1953, c. 104, s. 24.

**25.**—(1) The national anthem shall be played in every theatre at the commencement of the first or at the conclusion of the last exhibition or performance given each day. National anthem

(2) Where a matinee exhibition or performance is given and the theatre is closed for any period of time before the evening exhibitions or performances are given, the national anthem shall be played at the commencement or conclusion of the matinee exhibition or performance and at the commencement of the first or at the conclusion of the last evening exhibition or performance given each day. 1953, c. 104, s. 25. Idem

**26.**—(1) Where a film that has been classified as adult entertainment is exhibited in a theatre, such signs as the regulations may prescribe indicating that the film exhibited is adult entertainment shall be displayed in such manner as the regulations may prescribe. Adult entertainment

(2) All advertising matter in connection with a film classified by the Board as adult entertainment or the exhibition thereof shall indicate in such manner as the regulations may prescribe that the film is adult entertainment. 1953, c. 104, s. 26. Idem

**27.** The council of a city, town, village or township may pass by-laws prohibiting the construction of a theatre within 200 feet of a church or place of worship. 1953, c. 104, s. 27. Prohibiting construction of theatre near church

#### PROJECTIONISTS

**28.** No person shall,

(a) operate a projector designed for the use of standard film; or

(b) operate a projector in a theatre,

unless such person is licensed as a projectionist under this Act and no licensee or manager of a theatre shall permit any person to operate a projector in a theatre unless such person is licensed as a projectionist under this Act. 1953, c. 104, s. 28. Operation of projector without licence

**29.** Projectionist licences are classified as first class, second class and apprentice. 1953, c. 104, s. 29. Licences, classification

**30.** An application for examinations and tests for any class of projectionist licence shall be made to the Director accompanied by the prescribed fee. 1953, c. 104, s. 30. Application for examinations

Eligibility  
for re-  
examination

**31.**—(1) Where an applicant fails to pass the examinations and tests required by the Director, he is not eligible to try the examinations and tests a second time until he has worked as an apprentice or as the holder of a second-class licence, as the case may be, for such further period as the Director requires.

Idem

(2) Where an applicant fails to pass the examinations and tests a second time, he is not eligible to try such examinations and tests again except by leave of the Director. 1953, c. 104, s. 31.

Licences:  
first-class

**32.**—(1) A first-class licence may be issued by the Director on payment of the prescribed fee to the holder of a second-class licence who has passed the examinations and tests required by the Director for a first-class licence.

second-  
class

(2) A second-class licence may be issued by the Director on payment of the prescribed fee,

- (a) to the holder of an apprentice licence who has served as an apprentice for such period as the Director requires and has passed the examinations and tests required by the Director for a second-class licence; or
- (b) to any person who has operated projection equipment elsewhere than in Ontario and who furnishes to the Director information in respect of such operation satisfactory to the Director and has passed the examinations and tests required by the Director for a second-class licence.

apprentice

(3) An apprentice licence may be issued by the Director on payment of the prescribed fee to any person,

- (a) who is eighteen years or more of age; and
- (b) who furnishes to the Director,
  - (i) proof of age,
  - (ii) satisfactory evidence of physical ability to handle projection and fire-fighting equipment, and
  - (iii) satisfactory evidence that he does not suffer from any physical or mental disability that would prevent him from operating projection equipment safely. 1953, c. 104, s. 32.

Expiration  
of licence

**33.** Every projectionist licence expires on the 31st day of March in each year unless renewed on or before that day. 1953, c. 104, s. 33.



**34.** An application for renewal of a projectionist licence shall be accompanied by the prescribed fee. 1953, c. 104, s. 34. <sup>Renewal of licence</sup>

**35.** Projectionist licences are not transferable. 1953, c. 104, s. 35. <sup>Transfer of licence</sup>

**36.** The Director may suspend or cancel the licence of any projectionist who contravenes any of the provisions of this Act or the regulations, but no licence shall be suspended or cancelled until the projectionist has been afforded an opportunity to appear before the Director to show cause why the licence should not be suspended or cancelled. 1953, c. 104, s. 36. <sup>Suspension and cancellation for contravention</sup>

**37.** No licensee or manager of a theatre shall knowingly permit a projectionist to contravene any of the provisions of this Act or the regulations. 1953, c. 104, s. 37. <sup>Responsibility of licensee</sup>

#### CENSOR OF FILMS AND ADVERTISING

**38.** All film before being exhibited in Ontario shall be submitted to the Board for approval, accompanied by the prescribed fee. 1953, c. 104, s. 38. <sup>Approval of film</sup>

**39.** When film is approved by the Board, it shall be so stamped. 1953, c. 104, s. 39. <sup>Stamping</sup>

**40.**—(1) A certificate signed by the chairman or vice-chairman of the Board shall be issued in respect of each reel approved by the Board and shall accompany the reel at all times. <sup>Certificate to accompany reel</sup>

(2) Where certificates are lost or destroyed, application for duplicate certificates may be made to the Board setting forth the title of the film and the number of certificates lost or destroyed, and accompanied by the prescribed fee. 1953, c. 104, s. 40. <sup>Lost certificates</sup>

**41.** No person shall exhibit or cause to be exhibited in Ontario any film that has not been approved by the Board. 1953, c. 104, s. 41. <sup>Exhibition of film not approved by Board</sup>

**42.** No person shall alter or cause to be altered any film from its state as approved by the Board. 1953, c. 104, s. 42. <sup>Alteration of film</sup>

**43.**—(1) No person shall use or display any advertising matter in connection with film or the exhibition thereof unless a sample of the advertising matter has been approved by the Board. <sup>Approval of advertising</sup>

Samples to  
be sub-  
mitted to  
Board

(2) Before advertising matter in connection with film or the exhibition thereof is used or displayed in Ontario, a sample thereof in duplicate accompanied by the prescribed fee shall be submitted to the Board for approval.

Samples  
stamped  
approved

(3) Where a sample of advertising matter is approved by the Board, it shall be so stamped and one sample shall be returned to the person who submitted it. 1953, c. 104, s. 43.

#### FILM EXCHANGES

Film  
exchange  
licence

**44.** No person shall carry on the business of a 16-millimetre film exchange or a standard film exchange without a licence therefor from the Director. 1953, c. 104, s. 44.

Application  
for licence  
or renewal

**45.** An application for a film exchange licence or a renewal thereof shall be accompanied by the prescribed fee. 1953, c. 104, s. 45.

Term of  
licence

**46.** Every film exchange licence expires on the 31st day of March in each year unless renewed on or before that day. 1953, c. 104, s. 46.

Conditions  
to issue of  
licence

**47.** A standard film exchange licence shall be issued only if the building occupied by the film exchange,

- (a) is of fire-resistive construction in that portion of the building in which film is handled or stored;
- (b) is not more than two storeys in height;
- (c) is not situated within 50 feet of any building occupied as a school, church, hospital or hotel or place of public assembly;
- (d) is not occupied as a dwelling; and
- (e) in the opinion of the Director, is not occupied by another business that is dangerous to the carrying on of the business of the film exchange. 1953, c. 104, s. 47.

Transfer of  
licence

**48.** A film exchange licence shall not be transferred without the written consent of the Director. 1953, c. 104, s. 48.

Suspension  
or cancella-  
tion of  
licence

**49.** The Director may suspend or cancel any film exchange licence if the licensee has contravened any of the provisions of this Act or the regulations, but no licence shall be suspended or cancelled until the licensee has been afforded an opportunity to appear before the Director to show cause why the licence should not be suspended or cancelled. 1953, c. 104, s. 49.

**50.** No film exchange shall supply standard film to any person who does not hold a theatre licence under this Act or a licence under this Act to exhibit standard film in any building or premises other than a theatre in respect of which a licence is in force under this Act. 1953, c. 104, s. 50.

**51.** No film exchange shall supply any person with advertising matter in connection with film or the exhibition thereof that has not been approved by the Board. 1953, c. 104, s. 51.

**52.** No person shall smoke or be permitted to smoke in any portion of a building or premises occupied by a film exchange in which film is handled or store. 1953, c. 104, s. 52.

**53.** Where a fire occurs in a building or premises occupied by a film exchange or where any film of the film exchange is damaged or lost by reason of a fire elsewhere than in the building or premises occupied by the film exchange, the licensee of the film exchange or, in his absence, the person in charge shall forthwith notify the Director in writing stating the apparent cause of the fire and any damage or loss resulting therefrom. 1953, c. 104, s. 53.

**54.** No film other than film having a cellulose acetate base or a base having equivalent slow-burning characteristics and commonly known as safety film shall be kept or stored in a film exchange or film depot. 1959, c. 100, s. 3.

#### BUILDING PLANS

**55.** No person shall construct or alter any building or premises intended for use as a theatre or to be occupied by a film exchange until the plans of the proposed construction or alteration have been submitted to and approved by the Director. 1953, c. 104, s. 54.

**56.** The Director shall not approve the plans for the construction of a Class D theatre unless there is submitted with the application for such approval a copy of a resolution of the council of the local municipality in which such theatre is proposed to be constructed authorizing the construction of such theatre in the municipality, and such approval shall not be deemed to be a licence under section 12. 1954, c. 96, s. 1.

**57.** In the event of a conflict between this Act and the regulations and a municipal building by-law, this Act and the regulations prevail. 1953, c. 104, s. 55.

## MISCELLANEOUS LICENCES

Licence to  
operate  
16-mm. pro-  
jector

**58.**—(1) No person shall operate a projector designed for the use of film 16 millimetres in width for hire or gain without a licence therefor from the Director.

Application

(2) An application for a licence under this section shall be accompanied by the prescribed fee.

Term of  
licence

(3) Every licence issued under this section expires on the 31st day of March following the date of issue. 1953, c. 104, s. 56.

Licence to  
exhibit  
standard  
film else-  
where than  
in theatre

**59.**—(1) No person shall exhibit standard film in any building or premises other than a theatre in respect of which a licence is in force under this Act without a licence therefor from the Director.

Application

(2) An application for a licence under this section shall be accompanied by the prescribed fee.

Term of  
licence

(3) A licence issued under this section remains in force for such term as is specified in the licence. 1953, c. 104, s. 57.

## APPEAL

Appeal

**60.**—(1) Any person who deems himself aggrieved by a decision of the Board, Director, Assistant Director or an inspector may, within ten days after the receipt of notice in writing of the decision, appeal in writing to the Minister who shall, upon notice to all interested parties, hear the appeal and approve, disapprove or vary the decision appealed against. 1953, c. 104, s. 58 (1); 1959, c. 100, s. 4 (1).

Suspension  
of licence  
not affected

(2) The making of an appeal under this section does not affect the suspension or cancellation of a licence pending the disposition of the appeal by the Minister. 1953, c. 104, s. 58 (2); 1959, c. 100, s. 4 (2).

## OFFENCES

Offence

**61.** Every person who contravenes any of the provisions of this Act or the regulations, or any order of the Board, Director or Assistant Director, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. 1953, c. 104, s. 59.

Application  
of fees and  
fines

**62.** All fees collected under this Act and all fines recovered for offences against this Act or the regulations shall be paid to the Treasurer and shall form part of the Consolidated Revenue Fund. 1953, c. 104, s. 60.

## REGULATIONS

**63.**—(1) The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

1. prescribing the type of construction, heating, ventilating and lighting for theatres or any class thereof or for buildings or premises occupied or to be occupied by film exchanges and regulating and governing the design, construction, alteration, maintenance, repair, heating, ventilating and lighting of theatres or any class thereof or of buildings or premises occupied by film exchanges;
2. prescribing, regulating and governing the equipment to be used for the prevention and extinguishment of fire in theatres or any class thereof or in buildings or premises occupied by film exchanges;
3. prescribing the equipment, apparatus or furnishings or the type thereof to be used in theatres or any class thereof or in buildings or premises occupied by film exchanges;
4. regulating and governing the arrangement and use of equipment, apparatus or furnishings in theatres or any class thereof or in buildings or premises occupied by film exchanges;
5. prescribing the type of construction for vaults to be used for the storage of film or any class or type thereof;
6. providing that any material to be used in the construction, alteration, maintenance, repair, heating, ventilating or lighting of theatres or any class thereof or of buildings or premises occupied or to be occupied by film exchanges shall be approved by the Director and that any equipment, apparatus or furnishings to be used in theatres or in buildings or premises occupied by film exchanges or the arrangement or use thereof shall be approved by the Director;
7. regulating and governing the storage of film or any type or class thereof, advertising matter in connection with film or the exhibition thereof, film cement or any flammable material;
8. providing that film depots shall conform to any of the provisions of this Act or the regulations respecting film exchanges;

9. prohibiting and regulating the use and exhibition of film or any type or class thereof;
10. prohibiting and regulating the use and display of any advertising matter in connection with any film or the exhibition thereof;
11. requiring any proportion of films available for distribution to exhibitors or of films exhibited in theatres or any class thereof to be of British manufacture and origin and fixing such proportion on a monthly or yearly basis;
12. prescribing the responsibilities and duties of projectionists or of any class thereof;
13. prescribing the terms and conditions under which projection equipment may be operated;
14. prescribing the terms and conditions under which film or any type or class thereof may be sold, rented, leased or distributed;
15. prescribing the nature of the plans to be submitted to the Director under this Act and the qualifications of persons by whom such plans are to be prepared and certified;
16. prescribing the signs that shall be displayed in respect of the exhibition in a theatre of film classified by the Board as adult entertainment and the manner in which the signs shall be displayed;
17. prescribing the manner in which advertising matter in connection with any film classified by the Board as adult entertainment or the exhibition thereof shall indicate that the film has been so classified;
18. regulating and governing the conduct of projectionists or other persons in theatres or any class thereof or in buildings or premises occupied by film exchanges;
19. providing for the issue, renewal and transfer of theatre licences and film exchange licences or any class thereof and prescribing the fees therefor;
20. prescribing the fees to be paid by applicants for examinations and tests for any class of projectionist licence;
21. providing for the issue and renewal of projectionist licences or any class thereof and prescribing the fees therefor;

22. prescribing the fees to be paid for censoring and approving of film or reels or of any type or class of film or reels;
23. prescribing the fees to be paid for censoring and approving of advertising matter in connection with any film or the exhibition thereof;
24. prescribing the fees to be paid for the issue of certificates of approval and duplicates thereof;
25. providing for the issue of licences to exhibit standard film in buildings or premises other than a theatre in respect of which a licence is in force under this Act and prescribing the fees therefor;
26. providing for the issue and renewal of licences to operate projectors designed for the use of film 16 millimetres in width and prescribing the fees therefor;
27. prescribing forms and stampings and providing for their use;
28. exempting any theatre, film exchange, projector, or film, or any class or type thereof, from any of the provisions of this Act or the regulations;
29. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made under this section may be limited Limitation as to time or place, or both.

(3) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of Expressions defined in regulations the regulations. 1953, c. 104, s. 61.

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## CHAPTER 397

## The Threshing Machines Act

**1.**—(1) Every person owning or running a threshing machine, wood-sawing or other machine, that is connected to a horse-power by means of a tumbling rod or line of shafting, shall cause each of the knuckles, couplings or joints and jacks of such tumbling rod or line of shafting to be safely boxed or secured while running, with wood, leather or metal covering, in such manner as to prevent injury to persons passing over or near such tumbling rod, and the knuckles, couplings or joints and jacks thereof, and shall cause all oiling cups attached to arbors or journals to which driving belts are attached to be furnished with tubes of tin or other material which shall extend above the belts in such manner as to prevent injury to a person oiling the machine when it is in motion, and shall cause a driver's platform of sufficient size to cover the gearing of the horse-power to be so placed on it when used for driving machinery as to prevent an injury to any person from contact with such gearing.

Certain machines to be so protected as to prevent injury to persons

(2) No action shall be maintained, and no legal liability exists, for services rendered by or with any such machine, where the provisions of this section have not been complied with. R.S.O. 1950, c. 390, s. 1.

Non-compliance bar to action

**2.** Any person owning or running a threshing, wood-sawing or other machine, connected to a horse-power by means of a tumbling rod or line of shafting, who neglects or refuses to comply with the provisions of this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20. R.S.O. 1950, c. 390, s. 2.

Offence

**3.** All fines imposed and collected under this Act shall be paid, one-half to the complainant or prosecutor, and the other one-half to the treasurer of the school section in which the offence was committed for the use of the public school in such section. R.S.O. 1950, c. 390, s. 3.

Application of fines

**4.** All proceedings against any person for a contravention of section 1 shall be commenced within thirty days after the commission of the offence. R.S.O. 1950, c. 390, s. 4.

Limitation of prosecution

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1. 1. 36.

1. 1. 37.

1. 1. 38.

## CHAPTER 398

## The Ticket Speculation Act

**1.** In this Act, "ticket" means a card, pass or other document upon presentation of which the holder is entitled to admission to any theatre, opera house, public hall, show, game, grandstand, race meeting, exhibition or amusement of any kind. R.S.O. 1950, c. 391, s. 1. Interpretation

**2.** Every person who,

Offences:

- (a) being the holder of a ticket, sells or disposes of the ticket at a higher price than that at which it was first issued, or endeavours or offers so to do; selling
- (b) purchases or attempts to purchase tickets with the intention of reselling them at a profit, or purchases or offers to purchase tickets at a higher price than that at which they are advertised or announced to be for sale by the owner or proprietor of any place mentioned in section 1, purchasing as a speculation or at a higher price than advertised

is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50. R.S.O. 1950, c. 391, s. 2.

**3.** This Act does not apply to the sale of tickets by the proprietor of a shop or hotel stand or his servant when such proprietor is an agent of a theatre, opera house, public hall, grandstand, or of the owner or promoter of a show, game, race meeting, exhibition, or amusement of any kind for the sale of tickets, and where the commission charged upon the sale of each ticket does not exceed the maximum prescribed in the Schedule to this Act. R.S.O. 1950, c. 391, s. 3. Exception as to sale on commission at hotel stands and stores

## SCHEDULE

Price of Ticket	Maximum Commission
Up to \$1.99.....	.25
\$2.00 to \$2.99.....	.35
3.00 to 3.99.....	.45
4.00 and up.....	.50

R.S.O. 1950, c. 391, Sched.



## CHAPTER 399

## The Tile Drainage Act

1.—(1) Subject to sections 64 and 65 of *The Ontario Municipal Board Act*, the council of a town, village or township may pass by-laws (Form 1) for borrowing for the purposes hereinafter mentioned, in sums of not less than \$2,000, and not exceeding \$200,000 in the whole, such amount as they may deem expedient, and for issuing therefor debentures of the municipality (Form 2), payable within ten or twenty years from the date of the debentures, which shall bear date in the year in which the money is borrowed from the municipality as is hereinafter provided, and bearing interest at a rate of not less than 3 per cent per annum, and it is not necessary to obtain the assent of the electors to any such by-law before the passing thereof.

Borrowing  
powers of  
councils  
R.S.O. 1960,  
c. 274

(2) The amount of the indebtedness of the municipality in respect of money so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at any time exceed \$200,000, and no such by-law shall be passed except at a meeting of the council specially called for the purpose of considering it and of which notice has been published in accordance with subsection 3.

Proviso

(3) A notice (Form 3) of every such meeting shall be published at least once each week for three successive weeks in such newspaper as the council may by resolution direct, and the first publication of the notice shall be not less than four weeks prior to the holding of the meeting.

Notice of  
meeting

(4) Notwithstanding subsections 1 and 2, the council of a town, village or township, the assessment of the whole rateable property in which according to the last revised assessment roll is not less than \$3,000,000, may for the purposes hereinafter mentioned borrow sums not exceeding \$300,000 in the whole, provided the indebtedness in respect of money so borrowed and remaining unpaid shall not at any time exceed \$300,000. R.S.O. 1950, c. 392, s. 1.

Borrowing  
powers where  
assessment  
not less than  
\$3,000,000

2.—(1) After the passing of the by-law a copy of it shall be published in such public newspaper, published in the municipality or in the county town or in an adjoining or neighbouring municipality, as the council may by resolution

Publication  
of by-law

designate, and in at least one number of such newspaper each week for three successive weeks.

Notice to be  
appended

(2) To each copy of the by-law shall be appended a notice (Form 4).

When  
by-law  
to be valid

(3) If notice of an application to quash the by-law or any part thereof is not given within twenty days after the last publication under this section, or if such notice is given and the application is not made within one month after the last publication, the by-law shall not be questioned in any court and is valid and binding according to the terms thereof. R.S.O. 1950, c. 392, s. 2.

Application  
of proceeds

3. The debentures may be issued and sold by the municipality from time to time, for the purpose only of lending the proceeds thereof for tile, stone or timber drainage, as hereinafter provided, as money is required for the purpose. R.S.O. 1950, c. 392, s. 3.

Form of  
debentures,  
and coupons

4. The debentures shall be made payable to the Treasurer of Ontario and shall have coupons attached thereto that shall be for equal annual amounts of principal and interest. R.S.O. 1950, c. 392, s. 4.

Application  
for disposal  
of  
debentures

5.—(1) The council, after the expiration of one month from the last publication under section 2, shall deposit with the Treasurer of Ontario a copy of the by-law, with affidavits of the head and clerk of the municipality (Forms 5 and 6), and may at any time thereafter apply for the purchase by the Province of the debentures authorized thereby.

Form of  
application

(2) The application shall be sealed with the seal of the municipality and signed by the head thereof, and shall specify the names of the persons to whom the money is to be lent. R.S.O. 1950, c. 392, s. 5.

Report by  
Provincial  
Treasurer

6. The Treasurer of Ontario shall investigate and report to the Lieutenant Governor in Council as to the propriety of all proposed investments in the order in which the applications therefor are received. R.S.O. 1950, c. 392, s. 6.

Application  
by owner  
for loan

7.—(1) A person assessed as owner, and being the actual owner of land in the municipality, desiring to borrow money for the purpose of tile, stone or timber drainage may make application (Form 7) to the council.

Statutory  
declaration  
of applicant

(2) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he is the actual owner of the land mentioned in the application,

and that the land is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and, where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address.

(3) Where it appears that there is a mortgage or encumbrance upon the land or any part of it the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered mail, sent to him by the clerk at his last known address. Notice to encumbrancer

(4) If a mortgagee, encumbrancer or assignee notifies the clerk in writing, within the time specified in subsection 3, that he objects to the granting of the application, the council shall hold a hearing of which the clerk shall give at least five days notice in writing by registered mail to the applicant and to the mortgagee, encumbrancer or assignee who gave the notice. Hearing

(5) The granting or refusal of any application is in the discretion of the council whose decision is final. R.S.O. 1950, c. 392, s. 7. Discretion of council

8. If the application is granted the council may issue debentures for such sum within the amount authorized by this Act and by the by-law of the municipality, as it may deem proper, but not exceeding the sum applied for, nor exceeding 75 per cent of the estimated cost of the drainage. R.S.O. 1950, c. 392, s. 8. Issuing debentures

9. The Lieutenant Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund not exceeding in the whole at any time \$5,000,000 in the purchase of debentures issued under such by-laws in respect of which the Treasurer of Ontario has certified to the propriety of the investment. R.S.O. 1950, c. 392, s. 9; 1958, c. 111, s. 1. Purchase of debentures out of Consolidated Revenue Fund

10. Notwithstanding any other provisions of this Act, no application shall be granted by a council until the Treasurer of Ontario has approved the purchase of such debentures as the council may require to issue to undertake a proposed drainage work. R.S.O. 1950, c. 392, s. 10. Approval by Treasurer necessary before application granted

11. After such investment, the debentures shall not be questioned in any court and are valid and binding according to the terms thereof. R.S.O. 1950, c. 392, s. 11. Debentures not to be questioned

Assignment  
of  
debentures

**12.** The Treasurer of Ontario may sell, transfer and assign to the Accountant of the Supreme Court of Ontario or to the Workmen's Compensation Board any debentures issued under this Act after the 1st day of June, 1939. R.S.O. 1950, c. 392, s. 12.

Application  
of proceeds  
of loans

**13.**—(1) The council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage and for a term of ten or twenty years, in sums of \$100 or multiples thereof, subject to section 14, as the council may deem proper, to persons entitled to borrow. R.S.O. 1950, c. 392, s. 13 (1).

Members of  
council not  
disqualified  
by loan

(2) No person by reason of having borrowed money under this Act is disqualified from being elected as a member of council or from sitting or voting therein provided no member of council shall vote on any question affecting an application for a loan in which he has an interest. 1956, c. 89, s. 1.

Limit of  
loan to  
individual

**14.** The amount loaned to any one person shall not exceed \$3,000 for each 100 acres or fraction thereof, nor 75 per cent of the total cost of the work. R.S.O. 1950, c. 392, s. 14.

Order in  
which loans  
are to be  
granted

**15.** The council shall consider the applications in the order in which they are made, and shall lend the money in the same order to the persons whose applications are approved. R.S.O. 1950, c. 392, s. 15.

Appoint-  
ment of  
Inspector

**16.** A council borrowing money under this Act shall employ a competent inspector of drainage, the cost of whose services and whose expenses shall be apportioned rateably against the works carried on under his inspection, and shall be paid by the council out of the money borrowed. R.S.O. 1950, c. 392, s. 16.

Inspector's  
report

**17.**—(1) On the completion to his satisfaction of any drainage work under his charge, the inspector shall file with the clerk a report to the council certifying that in his opinion the work has been satisfactorily completed, and showing,

- (a) the number of rods of drainage constructed on each lot or parcel of land;
- (b) the cost per rod;
- (c) a plan of the work; and
- (d) such other particulars as may be required by the council.

Record

(2) The report shall be entered in a book provided by the council, and the money shall not be advanced by the council



until the report of the due completion of the work has been so made. R.S.O. 1950, c. 392, s. 17.

**18.** The council shall impose by by-law (Form 8), and shall levy and collect for the term of ten or twenty years as the council may elect, over and above all other rates upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge the principal and interest of the money lent in ten or twenty years as the case shall be, and the rate shall be collected in the same manner as other special rates imposed under *The Municipal Act*. R.S.O. 1950, c. 392, s. 18. Collection of special rate  
R.S.O. 1960, c. 249

**19.**—(1) Where a part of a parcel of land in respect of which money has been lent is sold, the council of the municipality may apportion the special annual rate between the part sold and the part remaining. Sale of part of land rated for work

(2) The clerk shall give the owners of the parts into which the parcel is divided and the mortgagees, encumbrancers or assignees at least five days notice in writing by registered mail of the time and place the council will make the apportionment. Notice

(3) The council in making the apportionment shall have regard to the part of the parcel affected by the drainage work and such other matters as it deems expedient and the decision of the council with respect to the apportionment is final. Apportionment of rate

(4) The apportionment shall be filed in writing with the clerk and thereafter the special annual rate shall be levied and collected in accordance with the apportionment. R.S.O. 1950, c. 392, s. 19. Filing of apportionment

**20.** The owner of land in respect of which money has been borrowed may at any time obtain the discharge of the indebtedness by paying to the treasurer of the municipality the amount borrowed, with interest thereon at the rate payable by the municipality to the Treasurer of Ontario or his assignee on the debentures of the municipality that the Treasurer or his assignee holds in respect of the said indebtedness, less any sum already paid on account of principal and interest, and upon the same being paid to the treasurer, he shall forthwith transmit it to the Treasurer of Ontario or his assignee who shall apply it towards payment of the debentures of the municipality. R.S.O. 1950, c. 392, s. 20. Discharge of indebtedness by owner

**21.** A council that has borrowed money shall, on or before the 15th day of January in each year, make a return to the Provincial Secretary, showing, for the year that ended Returns to Provincial Secretary by municipal council

on the 31st day of December next preceding, the amount expended in drainage, the number of rods of drain constructed, the names of the borrowers, the land upon which the money has been lent, the names of the persons whose applications have been refused and the reasons in each case for the refusal. R.S.O. 1950, c. 392, s. 21.

Repayment  
by municipi-  
pality to  
Province

**22.**—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario or his assignee within one month after it became payable, together with interest at the rate of 7 per cent per annum during the time of any default in payment.

Consequence  
of default  
in payment

(2) In case of a continuance of such default the council, in the next ensuing year or as the case may require, shall assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the municipality, a sum over and above the other valid debts of the corporation falling due within the year sufficient to enable the treasurer to pay the amount in arrear, together with interest thereon at the rate of 7 per cent per annum, from the time the same became payable until payment whether or not the same has been previously paid by or recovered from the persons or lands chargeable therewith.

How arrears  
ranked as  
a charge

(3) The amount so in arrear and the interest are the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-law they may have been raised.

Duty of  
municipal  
treasurer  
after  
default

(4) No treasurer or other officer shall, after such default, pay out of the funds of the municipality any sum except for the ordinary current disbursements, and salaries of clerks and other employees of the municipality or debts due to the Province until the amount so in arrear and the interest has been paid to the Treasurer of Ontario or his assignee.

Liability of  
municipal  
officers

(5) If the municipal treasurer or other officer pays any sum contrary to the provisions of subsection 4, in addition to any criminal liability that he may thereby incur, he is personally liable for every sum paid as for money had and received by him for the Crown.

Penalty for  
violation

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be contravened is also personally and individually liable for the full amount so in arrear and the interest, to be recovered as for money had and received by him for the Crown.

(7) No assessment, levy or payment made under this section exonerates the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1950, c. 392, s. 22. Liability of  
lands to  
municipality  
not affected

**23.** The Lieutenant Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act, and, subject thereto, the forms in the Schedule hereto shall be used. R.S.O. 1950, c. 392, s. 23. Regulations  
and forms

## SCHEDULE

### FORM 1

#### (Section 1 (1) )

#### FORM OF BY-LAW

*By-law No.*.....

*A by-law to raise \$.....to aid in the construction of tile,  
stone or timber drains.*

The Council of the.....of....., pursuant to *The Tile Drainage Act*, enacts as follows:

1. The Reeve (or Mayor) may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the Municipality such sum not exceeding in the whole \$....., as may be determined by the Council, and may in manner hereinafter provided, issue debentures of the corporation in such sums as the Council may deem proper for the amount so borrowed, with coupons attached as provided in section 4 of the Act.

2. Subject to section 10 of *The Tile Drainage Act*, when the Council is of opinion that the application of any person to borrow money for the purpose of constructing a tile, stone or timber drain should be granted in whole or in part, the Council may, by resolution, direct the Reeve (or Mayor) to issue debentures as aforesaid and to borrow a sum not exceeding the amount applied for, and may lend the same to the applicant on the completion of the drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the money is borrowed, sufficient for the payment of the principal and interest as provided by the Act.

Passed the.....day of.....19.....

.....  
Reeve (or Mayor)

.....  
Clerk

(Corporate  
seal)

## FORM 2

(Section 1 (1) )

## FORM OF TILE DRAINAGE DEBENTURE

\$..... No.....  
 Drainage Debenture of the..... of.....  
 The Corporation of the..... of....., in the County of.....  
 hereby promises to pay to the Treasurer  
 of Ontario or order at the Bank of..... in the.....  
 of....., the sum of \$..... of lawful money of Canada, and interest  
 thereon at..... per cent in..... equal annual instalments of \$.....  
 each, the first of such instalments to be paid on the..... day of.....  
 19....., pursuant to by-law No.....  
 entitled "A by-law to raise \$....., to aid in the construc-  
 tion of tile, (*stone or timber*) drains".  
 (Corporate Seal)

.....  
 Reeve (or Mayor).....  
 Treasurer

## FORM OF COUPON

Coupon for twentieth Annual  
 Instalment of..... Drainage  
 Debenture No. 1, issued under  
 By-law No..... of the.....  
 of..... \$..... payable at the  
 Bank of..... in the..... of  
 on..... day of.....  
 19.....

.....  
 Reeve (or Mayor) Treasurer

R.S.O. 1950, c. 392, Form 2.

## FORM 3

(Section 1 (3) )

## NOTICE OF MEETING TO CONSIDER BY-LAW

Take notice that a by-law for raising \$..... under the  
 provisions of *The Tile Drainage Act*, will be taken into consideration by  
 the Council of the.....  
 of..... at the..... of..... on the..... day  
 of....., 19....., at the hour of..... o'clock in the  
 noon.

.....  
 Clerk

R.S.O. 1950, c. 392, Form 3.

## FORM 4

(Section 2 (2) )

## NOTICE

Corporation of the.....of.....

Take notice that the above is a true copy of a By-law passed by the Council of the.....of.....  
 on the.....day of....., 19....., and all persons  
 are required to take notice that any one who desires to apply to have  
 the by-law or any part thereof quashed must serve notice of his appli-  
 cation upon the Head or Clerk of this municipality within 20 days after  
 the date of the last publication of this notice, and must make his applica-  
 tion to the Supreme Court of Ontario within one month after the said  
 date. This notice was first published on the.....day of  
 ....., 19....., and the last publication will be on the.....  
 day of....., 19.....

Clerk

R.S.O. 1950, c. 392, Form 4.

## FORM 5

(Section 5)

## AFFIDAVIT OF HEAD OF MUNICIPALITY

I, ....., of the  
 County of.....  
 TO WIT: } .....of.....in the County of.....,  
 Reeve (or Mayor) of the.....of.....make  
 oath and say:

I have not been served with any notice of intention to make application  
 to quash a by-law passed on the.....day of  
 ....., 19....., by the Council of  
 the.....of.....No.....  
 entitled (*insert the title of by-law*), nor have I been served with any notice  
 of intention to make application to quash any part of the by-law, nor  
 with any notice to that or the like effect.

Sworn, etc.,

Reeve (or Mayor)

R.S.O. 1950, c. 392, Form 5.

## FORM 6

(Section 5)

## AFFIDAVIT OF CLERK

I, ....., of the.....  
 County of.....  
 TO WIT: } of.....in the County of.....,  
 Clerk of the.....of.....make  
 oath and say:

1. On the.....day of....., 19.....,  
 the Council of the.....of.....  
 at a meeting specially called for that purpose passed a by-law for borrow-  
 ing money to be lent for the construction of tile, stone or timber drains,  
 being No.....and entitled (*insert title of by-law*), a  
 copy of which certified by me is now shown to me marked "A".

2. I have not been served with any notice of intention to make application to quash the by-law, or any part thereof, not with any notice to that or the like effect.

Sworn, etc.

.....  
Clerk

R.S.O. 1950, c. 392, Form 6; 1956, c. 89, s. 2.

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FORM 7

(Section 7)

APPLICATION FOR LOAN

To the Council of.....

I, *E. F.*, owner of (*if part state what part*) lot No. .... in  
..... Concession of the Township of ..... (*or as  
the case may be*) apply for a loan of \$..... to assist in  
the construction of ..... rods of .....  
drain on such land. The proposed depth of drain is ..... inches,  
the proposed size of tile is ..... inches (1).

*E. F.*

(1) *If the proposed drain is to be stone or timber for the words "size of tile" substitute the words "inside size of drain".*

R.S.O. 1950, c. 392, Form 7.

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FORM 8

(Section 18)

BY-LAW IMPOSING A RATE

*By-law imposing a Special Drainage rate upon Lot..... in the  
..... Concession.*

Whereas *E. F.*, the owner of (*if part state what part*) Lot..... in  
the..... Concession of the Township of ..... (*or as the case may  
be*), applied to the Council of the Township under *The Tile Drainage Act*,  
for a loan for the purpose of draining such land; and whereas the Council  
has, upon his application, lent *E. F.*, the sum of \$1,000 (*or as the case may  
be*), to be repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the Council, that an annual rate of.....  
per annum is hereby imposed upon such land for a period of.....  
years, such rate to be levied and collected at the same time and manner as  
ordinary taxes are levied and collected.

Passed this..... day of....., 19.....  
(Corporate  
seal)

.....  
Reeve (*or Mayor*)

.....  
Clerk

R.S.O. 1950, c. 392, Form 8.

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## CHAPTER 400

## The Time Act

1. Where an expression of time occurs in any Act, proclamation, regulation, order in council, rule, order, by-law, agreement, deed or other instrument, heretofore or hereafter enacted, made or executed, or where any hour or other point in time is stated either orally or in writing, or any question as to time arises, the time referred to or intended shall, unless it is otherwise specifically stated, be held to be time reckoned as standard time. 1958, c. 112, s. 1.

2.—(1) Standard time in the part of Ontario that lies east of the meridian of  $90^{\circ}$ W. longitude shall be reckoned as five hours behind Greenwich time.

(2) Standard time in the part of Ontario that lies west of the meridian of  $90^{\circ}$ W. longitude shall be reckoned as six hours behind Greenwich time.

(3) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time as fixed by subsection 1 or 2. 1958, c. 112, s. 2.





## CHAPTER 401

## The Toll Bridges Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Highways or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (b) "toll bridge" means a bridge designated under section 2;
- (c) "vehicle" means a motor vehicle, motorcycle, trailer, traction-engine, farm tractor or road-building machine and includes any other vehicle drawn, propelled or driven by other than muscular power. 1958, c. 113, s. 1.

2. The Lieutenant Governor in Council may designate the Skyway over the Burlington Canal, the Fort Frances Causeway, any bridge over or tunnel under the Welland Canal or any international bridge or tunnel as a toll bridge. 1958, c. 113, s. 2.

Designation  
as toll  
bridge

3.—(1) No person shall take or operate a vehicle, other than a vehicle exempted from this Act, upon a toll bridge without paying the toll prescribed for such vehicle.

User of  
toll bridge  
to pay  
tolls

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$5 and not more than \$10, and for a second or subsequent offence to a fine of not less than \$10 and not more than \$50. 1958, c. 113, s. 3.

Offence

4. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing classes of vehicles for the purposes of this Act;
- (b) exempting any class of vehicles from this Act;
- (c) prescribing the toll to be paid for any vehicle or class of vehicle taken or operated upon any toll bridge or different tolls for different toll bridges;

- (d) providing for the collection of tolls and the disposition thereof;
- (e) establishing authorities to manage toll bridges either alone or in conjunction with any Canadian or foreign authority;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1958, c. 113, s. 4.

Agreements  
re inter-  
national  
bridges  
and  
tunnels

**5.** The Minister may on behalf of Her Majesty in right of Ontario enter into agreements with any Canadian or foreign authority for the joint financing, construction or operation of any international bridge or tunnel and for any matter incidental thereto. 1958, c. 113, s. 5.

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## CHAPTER 402

**The Tourist Establishments Act****1. In this Act,**Interpre-  
tation

- (a) "Minister" means the Minister of Travel and Publicity;
- (b) "operator" means the owner or lessee of a tourist establishment or the resident manager or other person in charge thereof;
- (c) "regulations" means the regulations made under this Act; R.S.O. 1950, c. 393, s. 1, cls. (a-c).
- (d) "tourist establishment" means any premises operated for the accommodation of the travelling or vacationing public or at or from which equipment, supplies or services are furnished to the public in connection with angling, hunting or camping, but does not include,
  - (i) a camp operated by a charitable organization within the meaning of *The Charitable Institutions Act*, or R.S.O. 1960, c. 51
  - (ii) a summer camp within the meaning of the regulations made under *The Public Health Act*, or R.S.O. 1960, c. 321
  - (iii) a club owned by its members and operated without profit or gain. 1960, c. 123, s. 1 (1).

**2.—(1)** The Lieutenant Governor in Council may make Regulations regulations,

- (a) classifying tourist establishments; R.S.O. 1950, c. 393, s. 2 (1), cl. (a); 1958, c. 114, s. 2 (1).
- (b) providing for permits to establish and for licences to operate tourist establishments and respecting the form, issue, renewal, transfer, refusal, suspension and cancellation of such permits and licences and prescribing the fees payable for such permits and licences and renewals thereof; 1960, c. 123, s. 2.
- (c) providing for inspection of tourist establishments and for designation by the Minister of officials and

employees of the Government as inspectors and, subject to the approval of the Minister, for designation by municipal councils or by local boards of health of municipalities of officials and employees of the council or local board of health, respectively, as inspectors and for prescribing the powers and duties of inspectors so designated;

- (d) prescribing ground plans for tourist establishments including specifications governing the relative positions of and distances between the component parts of such establishments;
- (e) prescribing specifications governing the construction and size of buildings and other structures comprising tourist establishments;
- (f) prescribing cubic space requirements in respect of living and sleeping accommodation in tourist establishments;
- (g) prescribing the fire prevention measures that shall be taken and the fire-fighting equipment that shall be maintained in tourist establishments;
- (h) governing and regulating the manner in which the grounds, buildings, equipment and other facilities of tourist establishments shall be maintained, including the cleaning, fumigating and sterilizing of any part thereof;
- (i) prescribing requirements for tourist establishments in respect of water-closets and other sanitary facilities, water supply, plumbing, ventilation, heating, lighting, electrical equipment, food handling, disposal of garbage and other waste and other matters pertaining to the health and welfare of persons accommodated;
- (j) prescribing the maximum number of tourist establishments for any designated area;
- (k) requiring operators to display notices or insignia indicating the class of establishment operated, and prescribing such notices or insignia;
- (l) requiring operators to maintain a register of the persons, motor vehicles and trailers accommodated, and requiring persons accommodated to register therein, and prescribing the information that shall be entered in the register by the operator and by the person accommodated;

- (m) prescribing rules to be observed by persons accommodated in tourist establishments;
  - (n) requiring the operators of tourist establishments to keep posted in every room or building used for sleeping accommodation a notice specifying the rates charged for the room or building;
  - (o) prescribing the minimum amount of furniture, bedding, linen, heating and lighting devices, electrical outlets, utensils, dishes, cutlery, floor covering, window covering and other fixtures, furnishings, appliances and equipment that shall be provided in tourist establishments;
  - (p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1950, c. 393, s. 2 (1), cls. (c-p).

(2) The Lieutenant Governor in Council may in respect of <sup>Application of regulations</sup> any regulation,

- (a) designate the classes of tourist establishments to which it shall apply;
  - (b) designate the portions of Ontario within which it shall be in force;
  - (c) provide that it shall apply only to tourist establishments established before or after a designated date.
- R.S.O. 1950, c. 393, s. 2 (2).

**3.** Any regulation made under clauses *d* to *i* of subsection 1 <sup>Powers of municipalities</sup> of section 2 shall be regarded as containing minimum requirements only and the council of any city, town, village or township or the board of trustees of any improvement district in which any such regulation is in force may pass by-laws prescribing further or additional requirements with regard to any of the matters mentioned in the regulation, and every such by-law applies to the tourist establishments in the municipality to which the regulation previously applied.

R.S.O. 1950, c. 393, s. 3.

**4.** The council of every city and town shall provide for the inspection of the tourist establishments in the municipality <sup>Responsibility for inspection</sup> and is responsible for the enforcement in the municipality of the regulations and any by-law passed under section 3 but nothing in this section precludes inspection and enforcement by any provincial inspector. R.S.O. 1950, c. 393, s. 4.

**5.** Every municipal inspector shall make such reports <sup>Report to Minister</sup> respecting the tourist establishments in the municipality as the Minister may require. R.S.O. 1950, c. 393, s. 5.

Offence

**6.** Every person who contravenes any regulation or any by-law passed under section 3, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 393, s. 6.

Application  
of fine

**7.** Every fine imposed as the result of any proceeding instituted by a municipal inspector for a contravention of any regulation or of any by-law passed under section 3 is payable to the municipal corporation. R.S.O. 1950, c. 393, s. 7.

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## CHAPTER 403

## The Trade Schools Regulation Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Education;
- (b) "trade" means the skill and knowledge requisite for or intended for use in the construction, building, repair or operation of aircraft, steam engines, boilers, internal combustion engines or machinery of any kind, and any other occupation, calling or vocation designated as a trade by the regulations;
- (c) "trade school" means any school or place wherein any trade is taught or purported to be taught, or wherein any course of study by correspondence of a trade is organized, promoted, carried on, taught or purported to be taught other than a university recognized by the Department of Education or a school or course of instruction maintained under any Act of the Legislature. R.S.O. 1950, c. 395, s. 1.

2. No person shall keep or operate a trade school unless he is registered pursuant to this Act. R.S.O. 1950, c. 395, s. 2.

Operation  
of trade  
school  
without  
registration  
prohibited

3.—(1) Every person desirous of keeping or operating a trade school shall make application for registration or renewal of registration in writing to the Minister in accordance with the regulations.

Application  
for regis-  
tration of  
trade schools  
and renewals

(2) The Minister may require a certificate of a person authorized to inspect a trade school under section 7, certifying as to the safety of the operation and premises of the trade school. 1959, c. 101, s. 1.

Certificate  
of safety

4. Every registration under this Act expires on the 31st day of December of the year in respect of which the registration is effected. R.S.O. 1950, c. 395, s. 4; 1959, c. 101, s. 2.

Expiration  
and renewal  
of regis-  
tration

5. Upon the applicant for registration or for renewal of registration, as the case may be, complying with the requirements of the Minister and satisfying him that the trade school is provided with competent instructors and sufficient equipment for the teaching of any specified trade or trades, and is

Certificate  
of regis-  
tration

furnishing or is prepared to furnish proper instruction in such trade or trades, at reasonable rates, the Minister may cause the applicant to be registered as the keeper or operator of a trade school for the teaching of the specified trade or trades, and may issue a certificate of registration accordingly. R.S.O. 1950, c. 395, s. 5.

Refusal of  
registration

**6.** The Minister may refuse to grant a registration or renewal of registration where, in his opinion, the registration or renewal should not be granted. 1959, c. 101, s. 3.

Power to  
inspect  
trade  
schools

**7.** The Minister, or any person authorized by him in writing, may inspect any trade school at any time during which it is being kept or operated to determine the safety of the premises and the operation thereof, to observe the method of instruction given therein, and to inspect the business books and records, and all circulars, pamphlets and other material used for advertising the trade school and the instruction afforded therein, and any person who obstructs the Minister or authorized person in making any inspection or observation or who refuses or neglects to produce any business book or record upon demand is guilty of an offence and on summary conviction is liable to a fine of not more than \$100, and in default of payment, to imprisonment for a term of not more than two months. R.S.O. 1950, c. 395, s. 6; 1959, c. 101, s. 4.

Cancellation  
of  
registration

**8.** If, as the result of any inspection of any trade school, or upon being otherwise credibly informed, the Minister is satisfied that a trade school in respect of which registration has been made under this Act is insufficiently provided with the means of instruction or is not safe or that the charges made for the instruction given are unreasonable or that any regulation pursuant to this Act is not observed therein, he may cancel the registration, and thereupon the registration and the certificate thereof are void. R.S.O. 1950, c. 395, s. 7; 1959, c. 101, s. 5.

Offences

**9.—(1)** Every person who,

- (a) keeps or operates a trade school at a time when he is not registered pursuant to this Act as the keeper or operator of that trade school; or
- (b) keeps or operates a trade school for the purpose of giving instruction in a trade not specified in his certificate of registration; or
- (c) enters into any contract for the furnishing of instruction in a trade other than the contract set out in the application for registration, or a contract that has been approved by the Minister; or



- (d) whether acting as the owner or operator of a trade school or as an agent or representative thereof, or otherwise, sells or offers to sell instruction or a course of instruction in any trade, unless such instruction or course of instruction is a course of instruction specified in the certificate of registration of a trade school registered under this Act, and unless in the case of a sale, such sale is evidenced by a contract in a form approved by the Minister; or
- (e) is knowingly responsible for the contravention of any of the provisions of this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 for a first offence and not more than \$2,000 for a second or subsequent offence and in case of either a first, second or subsequent offence, either in default of payment of any fine imposed or in addition to any such fine, to imprisonment for a term of not more than six months.

(2) Subsection 1 shall be deemed to apply *mutatis mutandis*, <sup>Increase in fines</sup> to any company save that the fines may be increased in the discretion of the magistrate to not more than \$25,000. R.S.O. 1950, c. 395, s. 8.

**10.** No person who is not registered as the keeper or <sup>Court proceedings</sup> operator of a trade school under this Act is capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario or against any person domiciled in Ontario in the course of or in connection with business carried on by any trade school. R.S.O. 1950, c. 395, s. 9.

**11.** The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

- (a) prescribing the security to be provided by the keeper or operator of any trade school for the due performance of his contracts;
- (b) respecting applications for registration and renewals of registration;
- (c) prescribing the accommodation and equipment required by trade schools and the means of instruction to be used;
- (d) requiring the approval of the Minister for courses of study, requirements for admission, qualifications of teachers, methods of instruction, and premises and equipment used, in connection with a trade school;

- (e) prescribing the minimum number of hours of instruction in any trade that shall constitute a course of instruction in that trade;
- (f) prescribing the maximum fees that shall be paid or received for a course of instruction in any trade;
- (g) prescribing the terms and conditions upon which money paid for or on account of instruction in any trade school shall be either retained by the payee or be repayable to the payer;
- (h) prohibiting the use of any advertising relating to any trade school that may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the keeper or operator of any trade school;
- (i) regulating the selling or offering for sale of any course of instruction offered by a trade school;
- (j) prescribing the amount that may be asked, charged or received from the public for any article produced entirely or in part in any trade school, or for the material used by or for the services of any employee or student of the trade school;
- (k) limiting the number or amount of articles, goods or commodities produced in any trade school so that it may not compete unfairly with the production of similar articles, goods or commodities in any factory or shop;
- (l) fixing the times during which the public may obtain service in any trade school;
- (m) designating any occupation, calling or vocation as a trade within the meaning of this Act;
- (n) exempting any trade or trade school from the operation of this Act and the regulations;
- (o) fixing the fees that shall be payable on applications for registration or renewal of registration under this Act;
- (p) providing, in the case of any specified trade school, that no certificate or other document as to the competency of any person shall be issued by that trade school unless that person has submitted himself to such examination and by such persons as may be prescribed by the regulations, and prescribing fees for such examination and certificate;

- (q) providing for the making of annual returns and the furnishing of information to the Minister by the keepers and operators of trade schools;
- (r) prescribing forms and providing for their use;
- (s) generally, as to the conduct, operation and management of trade schools, and the nature of any examinations for certificates of competency, the manner, times, and places of holding such examinations, and the persons who shall sit as examiners. R.S.O. 1950, c. 395, s. 10; 1959, c. 101, s. 6.

**12.** No trade school for a trade that is designated under Schedule A of *The Apprenticeship Act* shall be registered under this Act without the consent of the Minister of Labour. <sup>Trades under R.S.O. 1960, c. 17</sup>

**13.** For the purpose of carrying out the provisions of this Act, the Lieutenant Governor in Council may appoint such officers as may be considered necessary or expedient. <sup>Appointment of staff</sup> R.S.O. 1950, c. 395, s. 12.

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## CHAPTER 404

**The Training Schools Act****1.** In this Act,Interpre-  
tation

- (a) "Board" means The Training Schools Advisory Board;
- (b) "Department" means the Department of Reform Institutions;
- (c) "foster home" includes the dwelling of any trustworthy and respectable person in which a boy or girl is permitted to live under section 22, a home or other institution maintained by any religious or charitable organization for the purpose in whole or in part of providing a home for boys or girls or both and any hospital connected therewith, and any other home, institution or place designated by the Board;
- (d) "inspector" means an officer of the Department designated as such by the Minister;
- (e) "judge" means a judge of a county, district or juvenile court, or a magistrate;
- (f) "Minister" means the Minister of Reform Institutions;
- (g) "municipality" means a county, city or separated town, and in a provisional judicial district also means a town having a population of 5,000 or over or a township having a population of 5,000 or over;
- (h) "Ontario training school" means a training school owned and operated by the Government of Ontario under this Act;
- (i) "parent" means a person who is under a legal duty to provide for a child;
- (j) "private training school" means a training school operated by a society under this Act;
- (k) "regulations" means the regulations made under this Act;
- (l) "society" means a religious society, organization or order or charitable or philanthropic organization;

(*m*) "superintendent" means a superintendent or other person in charge of a training school;

(*n*) "training school" means an Ontario training school or a private training school. R.S.O. 1950, c. 396, s. 1; 1957, c. 124, s. 1.

Purpose of  
training  
schools

**2.—**(1) The purpose of a training school is to provide the boys or girls therein with a mental, moral, physical and vocational education, training and employment.

Gifts

(2) Any municipal corporation and any association, corporation or individual may make gifts of real or personal property to a training school. R.S.O. 1950, c. 396, s. 2.

Ontario  
training  
schools

**3.—**(1) The Lieutenant Governor in Council may provide for the establishment of Ontario training schools.

Name

(2) Every Ontario training school shall bear the name "The Ontario Training School for Boys (*or* Girls)" followed by the name of the municipality in which the school is located or the name of such other municipality as the Lieutenant Governor in Council may designate.

Property

(3) All real and personal property acquired by purchase, gift or otherwise pertaining to Ontario training schools is vested in the Crown represented therein by the Minister of Public Works.

Cost

(4) The cost of establishing and maintaining Ontario training schools shall be paid out of such moneys as may be appropriated for the purpose by the Legislature and all revenues from whatsoever source derived by or pertaining to Ontario training schools shall form part of the Consolidated Revenue Fund. R.S.O. 1950, c. 396, s. 3.

Private  
training  
schools

**4.—**(1) The Lieutenant Governor in Council may, upon the recommendation of the Minister, authorize any society to establish and maintain a private training school, provided that, subject to the other provisions of this Act, a society so authorized is responsible for the maintenance in proper condition of such training school, its premises and equipment, and the Lieutenant Governor in Council may cancel any such authority for any reason that in his opinion warrants such cancellation.

Name

(2) A private training school shall bear such name or other designation as may be approved by the Lieutenant Governor in Council, but no such name or designation shall contain the expression "Ontario Training School".

Approval of  
site and  
plan

(3) A private training school shall not be erected, acquired or established until the site and plans of the buildings have

been approved in writing by the Minister, and no change in the site and no sale or disposal of any portion thereof, and no structural alteration in the buildings shall be made until the like approval has been given.

(4) Any religious corporation may set apart and grant or lease for a nominal consideration or otherwise for training school purposes any land that it has a general power to dispose of for religious, charitable or educational purposes, without being deemed guilty of a breach of trust. R.S.O. 1950, c. 396, s. 4. <sup>Granting or leasing of land</sup>

5.—(1) There shall be a board of five members to be known as The Training Schools Advisory Board, the members of which shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure, and the Lieutenant Governor in Council may designate one of the members to be chairman of the Board. <sup>Advisory Board</sup>

(2) The Minister may appoint a secretary for the Board. <sup>Secretary</sup>

(3) The Board shall meet at the call of the Minister or the chairman. <sup>Meetings</sup>

(4) The Board shall act in an advisory capacity to the Minister and when requested by him so to do shall consult with him as to the administration of this Act and of training schools. <sup>Board to act in advisory capacity</sup>

(5) The Board shall by visiting, inspecting and otherwise investigating training schools, ascertain the condition thereof and of the boys and girls therein, particularly as to matters of moral, scholastic, occupational and recreational natures and as to their wardship, care, health, treatment, conduct and discipline and shall make such reports to the Minister as he may require together with any recommendations it deems advisable. <sup>Inspection of training schools</sup>

(6) The Board may designate any home, institution or other place as a foster home. R.S.O. 1950, c. 396, s. 5 (1-6). <sup>Designating foster home</sup>

(7) The members of the Board, other than the chairman, shall serve without remuneration, provided that the Lieutenant Governor in Council may fix a per diem allowance to be payable to each member for attendance at meetings of and inspections by the Board, and every member is entitled to his reasonable and necessary travelling expenses as certified by the chairman for attendance at meetings and inspections and in the transaction of the business of the Board. R.S.O. 1950, c. 396, s. 5 (7); 1958 c. 116 s. 1. <sup>Allowance to members of Board</sup>

6.—(1) Every training school shall be inspected by an inspector, who has free access to all parts of its premises and <sup>Inspection of schools</sup>

to all its books and records, and in the case of a private training school the inspector also has authority to inspect the books and records of the society maintaining the training school in so far as they relate to the training school.

Minister  
may request  
inspection  
of training  
school

(2) The Minister may request any inspector or other officer or employee of any other department to conduct an inspection of any training school for any special purpose and for the purposes of the inspection, such inspector, officer or employee has the same powers as an inspector acting under subsection 1.

Reports of  
inspections

(3) The inspector and any other person who conducts an inspection under this section shall make such reports as the Minister may require. R.S.O. 1950, c. 396, s. 6.

Certain  
children  
under 16  
may be  
brought  
before  
judge

7.—(1) Any person may bring before a judge any boy or girl apparently under the age of sixteen years who,

- (a) is found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms;
- (b) is found wandering and has not a home or settled place of abode or proper guardianship;
- (c) is found destitute, either being an orphan or having a surviving parent who is undergoing imprisonment;
- (d) is an habitual truant and whose parent or teacher represents that he is unable to control the boy or girl;
- (e) is by reason of the neglect, drunkenness or other vices of his parents suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life;
- (f) has been accused or found guilty of petty crime; or
- (g) proves unmanageable. R.S.O. 1950, c. 396, s. 7 (1); 1960, c. 124, s. 1.

Proceedings  
before judge

(2) Where a boy or girl is brought before a judge under subsection 1, the judge, without any formal information being required, shall in the presence of the boy or girl hear the evidence of and on behalf of the person who has brought the boy or girl before him and shall make reasonable inquiry into the truth of such evidence.

Evidence  
to be under  
oath and  
transcribed

(3) All such evidence shall be given under oath and shall be taken down and transcribed,

- (a) where the proceedings are in a juvenile and family court that has a stenographer who is a member of the staff of such court, by that stenographer; and



- (b) where the proceedings are not in a juvenile and family court or where the juvenile and family court does not have a stenographer who is a member of the staff of such court, by a stenographer appointed by the judge.

(4) Stenographers appointed under clause b of subsection 3 or the employers of such stenographers shall be allowed the fees for taking down and transcribing evidence prescribed by *The Magistrates Act*, and such fees are payable by the municipality to which the child concerned in the proceedings belongs and where the child belongs to territory without municipal organization they are payable out of any money appropriated for the administration of justice in provisional judicial districts. Stenographers' fees R.S.O. 1960, c. 226

(5) The judge shall hear all cases coming before him under this section *in camera*. Hearing in private

(6) If the judge is satisfied on inquiry that it is expedient to deal with the boy or girl under this Act, he shall make his order in writing that the boy or girl be sent to a training school. Judge may order child to school

(7) Any order made under this Act is subject to an appeal to the Court of Appeal and such appeal may be at the instance of any next friend. Appeal to Court of Appeal R.S.O. 1950, c. 396, s. 7 (3-5).

8. Where under any Act or law in force in Ontario any person is convicted of an offence punishable by imprisonment and the judge before whom he is convicted is of opinion that the person is under the age of sixteen years, the judge may direct him to be sent to a training school. Child under 16 may be sent to training school R.S.O. 1950, c. 396, s. 8.

9. Where a judge orders that a boy or girl be sent to a training school under section 7 or directs that a person be sent to a training school under section 8, the judge shall cause a copy of the evidence taken before him to be sent to the superintendent of the training school and a copy to the Board. Copy of evidence sent to superintendent and Board 1956, c. 90, s. 2.

10. The Minister may, at any time, order that a boy or girl, Powers of Minister

- (a) who has been made a ward of a children's aid society under *The Child Welfare Act* or any other boy or girl one of whose parents or guardians consents thereto, unless there is no parent or guardian, and who in the opinion of the Minister is in need of the training and discipline offered by a training school shall be admitted to a training school; R.S.O. 1960, c. 53

(b) be transferred from one training school to another or to any foster home; or

(c) be discharged from a training school either absolutely or on such conditions as he may think fit,

and every such boy or girl shall be admitted, transferred or discharged accordingly. R.S.O. 1950, c. 396, s. 10.

Religion of  
child to be  
considered

**11.** As far as practicable, a Roman Catholic boy or girl shall be sent to a training school maintained by a Roman Catholic society and a boy or girl of any other religious persuasion shall be sent to an Ontario training school or a private training school other than one maintained by a Roman Catholic society. R.S.O. 1950, c. 396, s. 11.

Visits by  
clergymen

**12.** A clergyman of the religious persuasion to which a boy or girl appears to belong may visit the boy or girl at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by the regulations. R.S.O. 1950, c. 396, s. 12.

Transporta-  
tion of  
children to  
school

**13.—(1)** Every boy or girl sent to a training school shall where practicable be taken to the school by an agent or member of a children's aid society, and the actual expense incurred in so doing shall be borne by the municipality liable for maintenance.

Expenses  
in a provi-  
sional  
judicial  
district

(2) The expenses of conveying any boy or girl to a training school from any part of a provisional judicial district not included in a city or separated town or in a town or township having a population of 5,000 or over, are payable out of any money appropriated for the administration of justice in provisional judicial districts. R.S.O. 1950, c. 396, s. 13.

School to be  
designated  
in order

**14.—(1)** The judge or Minister in his order sending or admitting a boy or girl to a training school shall designate the school to which the boy or girl is to be sent and the person in whose custody he or she is to be conveyed to the school, and shall where practicable state the name, age and parentage of the boy or girl, as well as the religious persuasion and the jurisdiction liable for maintenance.

When order  
to be  
binding

(2) A copy of the order shall be forwarded by registered mail to the clerk of the municipality declared liable for maintenance and unless within one month of the mailing thereof the corporation of such municipality applies to the Minister, in cases where the order was made by the Minister, and in other cases to the judge making the order, or to the judge of the division court of the division in which the parent, step-parent or guardian of the boy or girl resides, to vary such

order by having some other municipality declared liable for the maintenance of the boy or girl, the corporation is, subject to sections 17 and 18, estopped from denying liability thereunder. R.S.O. 1950, c. 396, s. 14.

(3) Where the judge finds, having regard to all the circumstances, that a parent is able to contribute to the maintenance and education of the boy or girl, he may, in any order made under this Act, order such parent to refund to the municipality in whole or in part and whether or not the boy or girl is over the age of sixteen years the charges that the municipality has been ordered to pay, but nothing herein relieves the municipality from liability for the charges. 1957, c. 124, s. 2, *part*; 1960, c. 124, s. 2.

Contribution  
from parent  
ordered

(4) The provisions of *The Deserted Wives' and Children's Maintenance Act* with respect to the enforcement of orders apply *mutatis mutandis* to orders made under subsection 3. 1957, c. 124, s. 2, *part*.

Enforcement  
of orders  
R.S.O. 1960,  
c. 105

**15.**—(1) Subject as in this Act may otherwise be provided, when a boy or girl is sent or admitted to a training school, the municipality to which the boy or girl belongs is liable to the Department in the case of an Ontario training school and to the society operating the training school in the case of a private training school, for and shall pay such sum per day as the Lieutenant Governor in Council may prescribe towards the cost of maintenance and education of the boy or girl for each actual day's stay of the boy or girl in the training school. R.S.O. 1950, c. 396, s. 15 (1); 1959, c. 102, s. 1.

Liability of  
municipality

(2) For the purposes of this section, a boy or girl shall be deemed to belong to the municipality in which he or she has last resided for the period of one year, but in the absence of evidence to the contrary, residence for one year in the municipality in which he or she was taken into custody shall be presumed.

Where boy  
or girl  
belongs

(3) Where the boy or girl has not resided in any municipality in Ontario for one year, the municipality in which his or her mother has last resided for one year shall be deemed liable for maintenance.

Where  
mother's  
residence  
taken

(4) In the computation of the time in subsections 2 and 3, the time during which the boy or girl, or his or her mother, was an inmate of a children's, infants', maternity or other boarding home, a correctional or charitable institution, a hospital or any home or institution for custodial, medical or other care or supervision shall not be regarded, and the time during which the mother has resided in a municipality while her child was an inmate of any such home or institution shall likewise be disregarded.

Periods to  
be excluded  
in fixing  
time

Other  
cases

(5) In all other cases, the judge shall determine the municipality to which the boy or girl belongs. R.S.O. 1950, c. 396, s. 15 (2-5).

Statements  
of account  
to be  
rendered

**16.** When the charges for any boy or girl in a training school are payable by a municipality, the superintendent shall from time to time render to the clerk of the municipality statements of account of any such charges with full particulars thereof and if any such account is not paid within a reasonable time after it has been rendered, it may be recovered as a debt in a court of competent jurisdiction. R.S.O. 1950, c. 396, s. 16.

Municipal  
right of  
recourse  
against  
proper  
municipality

**17.** Upon payment by a municipality of any charges under this Act by reason of a boy or girl having been assumed to be a resident in such municipality and it being ascertained that he or she was not a resident therein but at the time of admission to a training school was a resident in another municipality in Ontario, the municipality which made the payment may recover the amount thereof as a debt from the municipality in which he or she was a resident and upon payment by that municipality it is entitled to exercise the rights of recovery conferred under section 18. R.S.O. 1950, c. 396, s. 17.

Municipal  
right of  
recourse

**18.—(1)** Where a municipality has paid an account rendered to it under this Act, it may recover from the proper parent the amount of the payment so made as a debt in a court of competent jurisdiction.

Idem

(2) Subsection 1 does not apply where an order has been made under subsection 3 of section 14. 1957, c. 124, s. 3.

County's  
right to  
contribution

**19.** The corporation of a county has the right to recover not exceeding one-half of the charges paid by it in respect of any boy or girl for which it is liable under this Act from the corporation of the township, town or village forming a part of the county in which he or she was a resident at the time of admission to a training school. R.S.O. 1950, c. 396, s. 19.

Contribution  
from  
Province to  
private  
training  
schools

**20.—(1)** The Lieutenant Governor in Council may make regulations providing for the payment to any society maintaining a private training school of a sum per day in respect of any class or classes of boys or girls in the training school out of the moneys appropriated therefor by the Legislature and fixing the amounts thereof.

How grant  
to be  
payable

(2) The money payable under this section shall be paid by the Treasurer of Ontario upon the report of an inspector approved by the Minister. 1959, c. 102, s. 2.

**21.**—(1) Every boy or girl sent or admitted to a training school shall upon admission become a ward of the training school until he or she attains the age of eighteen years and, subject to the regulations, is subject to the control of the Board and superintendent in the same manner and to the same extent as in the case of a guardian appointed by statute or by any court or by any will or instrument and all rights and powers of the parent or any such guardian over a boy or girl so admitted cease upon admission unless the Minister provides that the wardship of the training school shall cease upon the boy or girl leaving the school or at any time after leaving the school. School wardship over boys and girls

(2) When the Minister provides that the wardship of the training school shall cease, the boy or girl thereupon becomes a ward of that person who but for the wardship of the training school was or would have been in law his or her guardian. Restoration of other wardship

(3) The Board shall exercise and maintain supervision over every boy and girl sent or admitted to a training school after the boy or girl leaves the training school and until the termination of the wardship of the training school, and shall keep such records and provide for such visits as may be prescribed by the regulations. R.S.O. 1950, c. 396, s. 21. Supervision after leaving school

**22.**—(1) The Board and superintendent with the approval of the Minister, may permit any boy or girl upon leaving a training school, to live at a foster home or at the dwelling of any trustworthy and respectable person, and the control of the Board and superintendent is not thereby abated or diminished, and the municipality in which such boy or girl was resident at the time of admission to the training school is liable in the same manner and amount as provided in section 15 for each actual day's stay of the boy or girl in the foster home or other dwelling. R.S.O. 1950, c. 396, s. 22. Placing out of boys and girls

(2) The Board and superintendent, with the approval of the Minister, may require a boy or girl who has left a training school under subsection 1 to return to the training school at any time while the boy or girl is a ward of the training school. 1960, c. 124, s. 3. Recall

**23.**—(1) If a boy or girl sent to a training school escapes therefrom or neglects to attend thereat, he may, at any time before the determination of wardship, be apprehended without warrant, and may be brought back to the training school. Apprehension on escape

(2) If the boy or girl leaves the foster home or dwelling without the permission of the Board, or refuses to return to the training school, he shall be deemed to have escaped from the training school. R.S.O. 1950, c. 396, s. 23. What to be deemed an "escape"

## Offences

**24.** Every person,

- (a) who aids or abets any boy or girl to escape from or unlawfully leave a training school or foster home;
- (b) who knowingly harbours or conceals a boy or girl who has escaped from or unlawfully left a training school or foster home without giving notice of the child's whereabouts to the training school or to the local police authorities;
- (c) who knowingly makes, or procures to be made, any false statement in any return required under this Act; or
- (d) who contravenes any of the provisions of this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1950, c. 396, s. 24.

## Rules governing private training schools

**25.** The officers of a society maintaining a private training school may, subject to the regulations and the approval of the Minister, make such rules as they may deem necessary,

- (a) for the appointment of the superintendent and other officers and employees;
- (b) for the management and discipline of the training school; and
- (c) for the more efficient operation of the training school. R.S.O. 1950, c. 396, s. 25.

## Regulations

**26.** Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) in regard to Ontario training schools,
  - (i) providing for the appointment and remuneration of superintendents and such officers and employees as he may deem necessary,
  - (ii) providing for the use in a training school of such products and articles as may be produced on the premises thereof and for the sale of any surplus products or articles that may be produced or manufactured on the premises;
- (b) in regard to all training schools,
  - (i) prescribing the powers and duties of the Board,

- (ii) prescribing the powers and duties of superintendents including the control which they may exercise over boys and girls,
  - (iii) fixing the age at which and conditions under which boys and girls may be admitted to training schools, the period during which they may be kept at training schools and the conditions under which they may leave or be discharged therefrom,
  - (iv) prescribing the type of mental, moral, physical and vocational education, training and employment to be provided and setting standards of instruction,
  - (v) regulating the conduct and discipline of boys and girls in training schools,
  - (vi) prescribing the records, books, account systems, audits, reports and returns to be kept and made by or pertaining to training schools,
  - (vii) regarding the management, discipline, government and control of training schools and the maintenance of the buildings, premises and equipment thereof,
  - (viii) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 396, s. 26.
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## CHAPTER 405

## The Transportation of Fowl Act

1. In this Act, "fowl" means live fowl and dressed or <sup>Interpre-</sup>undressed poultry. R.S.O. 1950, c. 397, s. 1. <sup>tation</sup>

2.—(1) Subject to subsection 2, this Act does not apply to, <sup>Non-appli-</sup>  
<sup>cation of</sup>

(a) a *bona fide* producer or breeder of fowl;

(b) a *bona fide* purchaser for his own use or a donee of twelve fowl or less; or

(c) a person licensed under *The Public Commercial* <sup>R.S.O. 1960,</sup>  
*Vehicles Act.* <sup>c. 319</sup>

(2) In a prosecution for a contravention of this Act, the <sup>Onus of</sup>  
onus is on the person charged to prove that he comes within <sup>proof</sup>  
the provisions of clause *a* or *b* of subsection 1. R.S.O. 1950, c. 397, s. 2.

3.—(1) No person shall carry or transport fowl on any <sup>Permit</sup>  
highway in Ontario unless he holds a permit for that purpose <sup>required</sup>  
granted by the clerk of the county in which he resides or <sup>for trans-</sup>  
carries on business and, where he does not reside or carry on <sup>portation</sup>  
business in any county in Ontario, unless he holds such a <sup>of fowl</sup>  
permit granted by the clerk of that county in Ontario nearest  
to his place of residence or business.

(2) In unorganized territory, a permit required under this <sup>In unor-</sup>  
Act shall be granted by the clerk of the municipality in which <sup>ganized</sup>  
the person requiring the permit resides or carries on business <sup>territory</sup>  
or, where he resides or carries on business in territory without  
municipal organization, he may obtain the necessary permit  
from the clerk of the municipality nearest to his place of resi-  
dence or business. R.S.O. 1950, c. 397, s. 3.

4.—(1) The clerk may grant such permits without the <sup>Clerk to</sup>  
passing of any by-law for that purpose by the council and may <sup>issue</sup>  
revoke any permit granted and has the same discretion as to <sup>permits</sup>  
the granting or refusing to grant or the revoking of permits as  
the council has with reference to licences under *The Municipal* <sup>R.S.O. 1960,</sup>  
*Act.* <sup>c. 249</sup>

(2) The fee for the permit is \$1 and belongs to the county <sup>Fee</sup>  
or municipality, as the case may be. R.S.O. 1950, c. 397, s. 4.

Contents of  
permit

**5.** The permit shall contain the name of the person to whom it is granted, the address of his residence or place of business, and set out that the holder is authorized to transport fowl on the highways in Ontario and remains in force for the calendar year in which it is issued. R.S.O. 1950, c. 397, s. 5.

Record  
by clerk

**6.** The clerk of the council shall keep a record of all permits issued, which shall be open to inspection by any constable or peace officer. R.S.O. 1950, c. 397, s. 6.

Permit and  
book for  
entry as to  
fowl to be  
carried

**7.** The holder of a permit shall carry with him at all times when he is transporting fowl his permit and a book in which he shall enter at the time he receives them the number and kind of fowl and the name and address of the person from whom he received them, and to whom he is to deliver them, and in case of a purchase the price paid, and, whether or not he is transporting fowl, he shall produce the permit and the book when required by a constable or peace officer. R.S.O. 1950, c. 397, s. 7.

Inspection  
of premises  
of permit  
holder

**8.** Any constable or peace officer may inspect the premises of the holder of a permit and any vehicle in his possession and no person shall obstruct or interfere with such constable or peace officer when making such inspection. R.S.O. 1950, c. 397, s. 8.

Right of  
constable to  
stop person  
on highway  
for purposes  
of Act

**9.** Any constable or peace officer may order any person on the highway to stop for the purpose of ascertaining by search if he thinks it necessary, whether such person is carrying or transporting fowl, and, if he is, of requiring him to produce his permit, and, if he has not a permit, to give his name and address and the name and address of the person from whom the fowl were obtained, and no person shall fail to stop when ordered or refuse to give the information required or obstruct or interfere with the constable or peace officer in the performance of his duty under this section. R.S.O. 1950, c. 397, s. 9.

Offence

**10.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than \$50 and, for any subsequent offence, to a fine of not less than \$50 and not more than \$100 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1950, c. 397, s. 10, *amended*.

Limitation

**11.** An information for an offence under this Act may be laid at any time within twelve months after the offence was committed. R.S.O. 1950, c. 397, s. 11, *amended*.

## CHAPTER 406

## The Trees Act

## TREES ON BOUNDARY LINES

1. In this Act, "forestry purposes" means primarily the production of wood and wood products and includes such secondary purposes as proper environmental conditions for wild life, protection against floods and erosion, recreation, and the protection and production of water supplies. 1960, c. 125, s. 1. <sup>Interpretation</sup>

2. An owner of land may with the consent of the owner of adjoining land, plant trees on the boundary between such lands, and every tree so planted shall be the common property of the owners. R.S.O. 1950, c. 399, s. 1. <sup>Trees on boundary lines</sup>

3. Every person who ties or fastens any animal to or injures or destroys any tree growing for the purposes of shade or ornament upon a boundary line between lands, or who suffers or permits any animal in his charge to injure or destroy or who trims, cuts down or removes any such tree without the consent of the owners thereof, is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1950, c. 399, s. 2. <sup>Injuring trees</sup>

## TREES CONSERVATION

4. Subject to the approval of the Minister of Lands and Forests, the council of any county, or any municipality separated from the county for municipal purposes, or any municipality in a territorial district, may pass by-laws, <sup>By-law restricting cutting of trees</sup>

- (a) restricting and regulating the destruction of trees by cutting, burning or other means; and
- (b) providing for the appointment of officers to enforce the provisions of any by-law passed under this section. 1954, c. 98, s. 1.

5. A by-law passed under section 4 does not,

<sup>Exceptions</sup>

- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;

R.S.O. 1960,  
c. 249

- (b) interfere with any rights or powers conferred upon a municipality by *The Municipal Act*;
- (c) interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any other board or commission that is performing its functions for or on behalf of the Government of Ontario;
- (d) apply to trees growing upon any highway or upon any opened road allowance; or
- (e) apply to trees growing in a woodlot having an area not exceeding two acres. R.S.O. 1950, c. 399, s. 4.

Offence

**6.** Every person who contravenes the provisions of any by-law passed pursuant to section 4 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than three months. R.S.O. 1950, c. 399, s. 5.

#### MUNICIPAL REFORESTATION

County  
by-laws for  
acquiring  
lands for  
forestry  
purposes

**7.** The council of any county may pass by-laws,

- (a) for acquiring by purchase, lease or otherwise land for forestry purposes;
- (b) for declaring land that is owned by the municipality to be required by the municipality for forestry purposes;
- (c) for planting and protecting trees on any land acquired for or declared to be required for forestry purposes;
- (d) for the management of any land acquired for or declared to be required for forestry purposes and the sale or other disposition of the trees thereon;
- (e) for the issuing of debentures, without the assent of the electors but subject to the approval of the Ontario Municipal Board, from time to time for the purpose of providing for the purchase of land for forestry purposes to an amount not exceeding \$25,000 to be owing at any one time;
- (f) for entering into agreements for the management of any land acquired for or declared to be required for forestry purposes;
- (g) for leasing, selling or otherwise disposing of any land acquired for or declared to be required for forestry purposes. 1960, c. 125, s. 2.

**8.—**(1) The council of any city, town, village or township, <sup>Powers of certain local municipalities</sup> having a population of not less than 10,000, has all the powers, privileges and authority conferred on the council of a county by section 7.

(2) Land may be acquired under subsection 1 in another municipality with the consent of the council thereof. <sup>Acquisition of land in another municipality</sup>

(3) Where a municipality acquires land in another municipality under this section, the council of the first-mentioned municipality may agree to pay annually to the municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. 1952, c. 108, s. 2. <sup>Payments</sup>

**9.—**(1) The council of any township having a population of less than 10,000 has all the powers, privileges and authority conferred by clauses *a*, *b*, *c*, *d*, *f* and *g* of section 7 on the council of a county. R.S.O. 1950, c. 399, s. 7 (1); 1952, c. 108, s. 3 (1); 1960, c. 125, s. 3. <sup>Powers of township councils</sup>

(2) The council of any township may levy by special rate <sup>Idem</sup> a sum not exceeding \$1,000 in any year for the purpose of providing for the purchase of such land. R.S.O. 1950, c. 399, s. 7 (2); 1952, c. 108, s. 3 (2).

**10.—**(1) The council of any township may enter into agreements with the owners of lands located in the township <sup>Agreements as to re-forestation areas</sup> providing for,

- (a) the reforestation of portions of such lands;
- (b) the entry and planting of trees upon such portions by the servants or agents of the council; and
- (c) the fencing of such portions and conservation of all growing trees thereon by the owner.

(2) No such agreement shall provide for the reforestation <sup>Acreage</sup> of less than five acres of land for every one hundred acres belonging to the same owner.

(3) Every such agreement shall prescribe the conditions <sup>Cutting</sup> under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister of Lands and Forests.

(4) The council of the township may exempt any such <sup>Exemption from taxation</sup> portion from general taxation as long as it continues to be used for the purposes set out in the agreement.

(5) The council of the township may enter into agreements <sup>Agreements with Ministers of Labour</sup> with the Minister of Labour for Canada and the Minister of

Labour for Ontario regulating the conditions of labour and the payment of wages in respect of labour performed in connection with the planting and conservation of trees in such portions. R.S.O. 1950, c. 399, s. 8.

Approval  
of by-law  
by Minister

**11.** No by-law shall be finally passed under section 7, 8, 9 or 10 until approved in writing by the Minister of Lands and Forests. R.S.O. 1950, c. 399, s. 9; 1952, c. 108, s. 4.

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## CHAPTER 407

## The Trench Excavators' Protection Act

## 1. In this Act,

Interpre-  
tation

- (a) "inspector" means an inspector appointed under this Act or under a municipal by-law for the purpose of enforcing this Act;
- (b) "regulations" means the regulations made under this Act; 1954, c. 99, s. 1, cls. (a, b).
- (c) "trench" means any excavation in the ground where the vertical dimension from the highest point of the excavation to a point level with the lowest point of the excavation exceeds the least horizontal dimension of the excavation, such dimensions being taken in a vertical plane at right angles to the longitudinal centre line of the excavation. 1958, c. 118, s. 1.

## 2. This Act does not apply,

Application

- (a) to any part of a trench where the trench is four feet or less in depth;
- (b) to a trench where the work therein is done only by the owner thereof in person;
- (c) to a trench into which no person is required to enter for any purpose; 1954, c. 99, s. 2, cls. (a-c).
- (d) to a part of a trench excavated for a pipe line or conduit if the trench is mechanically excavated, if the sections of the line or conduit are permanently assembled before being mechanically placed in the trench, and if the trench is mechanically back-filled; 1955, c. 89, s. 1.
- (e) to a mine within the meaning of *The Mining Act*; R.S.O. 1960, c. 241
- (f) to a cutting for the right of way of a highway or railroad;
- (g) to an excavation that comes within the regulations made under section 10 of *The Department of Labour Act*; R.S.O. 1960, c. 97
- (h) to an excavation made for the burial of a deceased person. 1958, c. 118, s. 2.

Inspectors,  
in municip-  
alities

**3.—(1)** The council of every local municipality shall, by by-law, appoint one or more inspectors to enforce this Act in the municipality.

in unorgan-  
ized terri-  
tory

(2) The Lieutenant Governor in Council may appoint one or more inspectors to enforce this Act in territory without municipal organization. 1954, c. 99, s. 3.

Power of  
entry

**4.—(1)** An inspector may enter any land for the purpose of carrying out an inspection under this Act.

Obstruction  
of inspector

(2) No person shall obstruct an inspector in the performance of his duties or furnish him with false information. 1954 c. 99, s. 4.

Order of  
inspector

**5.—(1)** Where an inspector finds that any provision of this Act or the regulations is being contravened, he may give such order in writing as he thinks necessary to secure compliance therewith and, until such order is carried out, the work upon that part of the trench in which the contravention occurs shall be suspended. 1954, c. 99, s. 5 (1); 1955, c. 89, s. 2.

Offence

(2) Every person to whom an order of an inspector is directed who contravenes or knowingly permits any person under his direction or control to contravene such order or to carry on work in contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for every day upon which the contravention continues. 1954, c. 99, s. 5 (2).

Inspector  
to be noti-  
fied of  
proposed  
trench

**6.—(1)** The owner of land on which it is proposed to excavate a trench, or if a contractor is to excavate a trench, the contractor, shall before commencing work on the trench give notice in writing to an inspector appointed to enforce this Act in the jurisdiction in which the proposed trench is to be excavated stating,

- (a) the name and address of the owner of the land on which the trench is to be excavated and of the contractor, if any;
- (b) the location of the proposed trench;
- (c) the particulars as to the depth and width of the proposed trench; 1954, c. 99, s. 6, cls. (a-c).
- (d) the particulars, known to the owner or contractor, as to the type and condition of the soil, and the location of any pipes, conduits or prior excavations in or adjacent to the proposed trench; 1955, c. 89, s. 3 (1).



- (e) the proposed date of commencing work on the trench; and
  - (f) the name and address of the person who will be in charge of the work in connection with the trench.
- 1954, c. 99, s. 6, cls. (d,e).

(2) Notwithstanding subsection 1, where it is necessary <sup>Exception</sup> to excavate a trench immediately in order to permit the making of a repair or to take other action to prevent injury to persons or damage to property, work on the trench may be commenced without compliance with subsection 1 but in any such case the notice shall be given to the inspector as soon as practicable. 1955, c. 89, s. 3 (2).

**7.** It is the duty of the owner of the land in which a trench <sup>Duties of owner or contractor</sup> is being excavated or, if the work on the trench is being done by a contractor, it is the duty of the contractor,

- (a) to ensure that this Act and the regulations are complied with;
- (b) at least once in each eight-hour period that a person is working in or near a trench to cause to be inspected by a person well experienced in such work,
  - (i) the condition of the trench,
  - (ii) the shoring and timbering provided for the safety of any person in or near the trench,
  - (iii) the soil or rock piled and equipment stored or used in or near the trench, and
  - (iv) the fences, ladders and other things provided for the safety of any person in or near the trench,

and the person making such inspection shall forthwith take any remedial action that he deems necessary to protect the safety of any person in or near the trench. 1958, c. 118, s. 3.

**8.—(1)** The sides of all trenches exceeding four feet in <sup>Shoring and timbering</sup> depth shall be securely shored and timbered with good quality material in accordance with the regulations and the shoring and timbering shall extend at least one foot above the top of the trench, except that where the inspector gives permission in writing to the person in charge of the work in connection with the trench, the shoring and timbering need not extend above the top of the trench. 1954, c. 99, s. 8 (1); 1955, c. 89, s. 4 (1).

## Application

(2) Subsection 1 does not apply where the trench is cut in solid rock or where the trench is excavated in hard and solid soil and does not exceed six feet in depth or where the sides of the trench are sloped to within four feet of the bottom of the trench so that the sloped sides of the trench do not have more than one foot of vertical rise to each foot of horizontal run. 1954, c. 99, s. 8 (2); 1955, c. 89, s. 4 (2).

## Trench with sloping sides

(3) Where the sides of a trench are sloped as described in subsection 2 but not to within four feet of the bottom of the trench, the vertical walls of the trench shall be shored and timbered with good quality material in accordance with the regulations and the shoring and timbering shall extend at least one foot above the vertical walls and be fitted with toe-boards to prevent material rolling down the slope and falling into the part of the trench with vertical walls.

## Drawings for shoring and timbering

(4) Drawings and specifications for the shoring and timbering of all trenches to exceed thirty feet in depth and all trenches to exceed twelve feet in width shall be submitted in duplicate to the inspector appointed to enforce this Act in the jurisdiction in which the trench is to be excavated and the trench shall not be commenced until the drawings and specifications have been approved by the inspector and the shoring and timbering shall conform to such approved plans.

## When shoring and timbering to be done

(5) Shoring and timbering shall be carried along with the excavating of a trench but when conditions permit may be done before the excavating commences. 1954, c. 99, s. 8 (3-5).

## Removal of shoring

(6) Where the shoring and timbering is to be removed on completion of the other work in a trench, such removal shall be done by or under the personal supervision of a person experienced in removing shoring and timbering. 1955, c. 89, s. 4 (3).

## Ladders to be provided

**9.** Ladders or other means of escape satisfactory to an inspector shall be provided in every trench and such ladders or other means of escape shall be spaced at intervals of not more than fifty feet in each trench and shall extend above the top of the trench. 1954, c. 99, s. 9.

## Staging and scaffolding

**10.**—(1) Where staging or scaffolding for handling by hand in relays materials excavated from the trench is erected independently of the shoring or timbering on the sides of the trench, it shall be structurally adequate to protect persons working thereon or in the trench from collapse of the staging or scaffolding or from falling objects.

## Idem

(2) Where the staging or scaffolding is attached to the shoring and timbering on the sides of the trench, the shoring

and timbering shall be sufficiently reinforced to withstand the additional load thereby imposed on the shoring and timbering. 1954, c. 99, s. 10.

**11.—**(1) The person in charge of work in connection with a trench shall not allow or designate any person inexperienced in handling dynamite or other high explosives to handle, transport, prepare or use dynamite or other high explosives in connection with such work unless the inexperienced person works under the personal supervision of a person having experience in such work. 1954, c. 99, s. 11 (1); 1955, c. 89, s. 5.

Handling  
of high  
explosives  
by inex-  
perienced  
persons

(2) The person in charge of work in connection with a trench shall post up in the field office and at the magazines the names of all persons designated to handle, transport, prepare or use dynamite or other high explosives.

Posting  
of names

(3) The person in charge of work in connection with a trench shall designate one person to be in charge of blasting operations in each section of the trench affected by the blasting operations and such designated person shall enforce his orders and directions and supervise the fixing of all charges and all other blasting operations.

Blasters  
designated

(4) Every firing circuit in connection with blasting operations shall be broken outside the trench at a point and in a manner satisfactory to an inspector.

Firing  
circuits

(5) No greater quantity of dynamite or other high explosives than is required for immediate use in a trench shall be taken into a trench. 1954, c. 99, s. 11 (2-5).

Quantity  
of high  
explosives  
in trench

**12.—**(1) The person in charge of the work in connection with a trench shall take precautions to ensure that no harmful gases or fumes are present in the trench to such a degree as may endanger the health and safety of persons working therein.

Gases in  
trench

(2) Where gases and fumes are likely to be present in a trench, or tests show their presence therein, sufficient mechanical ventilation to protect the health and safety of persons working therein shall be provided. 1954, c. 99, s. 12.

Mechanical  
ventilation  
required

(3) Where mechanical ventilation may not adequately supply uncontaminated air for a person in a trench, such person shall be provided with and shall use respiratory protective equipment furnishing air from an uncontaminated source. 1955, c. 89, s. 6.

Respiratory  
protective  
equipment

**13.** No internal combustion engine shall be operated in a trench unless adequate provisions are made to ensure that exhaust gases and fumes are discharged to a point sufficiently

Gases in  
trench from  
internal  
combustion  
engine

remote from the trench to prevent their return to or accumulation in the trench. 1954, c. 99, s. 13.

Rock-drilling  
operations

**14.** Where rock-drilling operations are carried on in a trench, the person in charge of the work in connection with the trench shall ensure that an adequate supply of water is provided at the drill hole to control the dissemination of dust into the breathing zone of the drill operator or other persons working in the trench. 1954, c. 99, s. 14.

Objects in  
or near  
trench

**15.—(1)** No tool, machinery, timber or other object shall be placed in or kept adjacent to a trench in a manner that may endanger the safety of a person in the trench.

Excavated  
material

**(2)** No excavated material shall be placed or kept within two feet of the edge of a trench. 1955, c. 89, s. 7.

Operation  
of vehicles,  
etc., close  
to trench

**16.** The person in charge of the work in connection with a trench shall ensure that no vehicle, machinery or horse is driven or operated or located so close to the edge of a trench in which persons are working as to endanger the stability of the walls of the trench by vibration or otherwise. 1954, c. 99, s. 16.

Guards and  
barricades

**17.—(1)** Such fences, guards or barricades as will prevent persons from falling into a trench shall be provided at or near the sides of all trenches and shall be kept in place at all times except when such fences, guards or barricades will interfere with the excavation or other work being done.

Idem

**(2)** When operations are suspended and during darkness such fences, guards or barricades as will prevent persons from falling into a trench shall be provided at or near the sides of all trenches and all piles of excavated material or other material, tools and machinery shall be marked by lighted lanterns or flares where necessary to prevent accidents. 1954, c. 99, s. 17.

Application

**(3)** This section applies only to a trench in or adjacent to a public or private way. 1955, c. 89, s. 8.

Persons  
entering  
trenches

**18.** The person in charge of work in connection with a trench shall not allow any person to enter or to remain in the trench if the provisions of this Act and the regulations with respect to such trench are not complied with. 1954, c. 99, s. 18; 1955, c. 89, s. 9.

Moving or  
altering  
fences, etc.

**19.** No person shall move, alter or destroy any shoring or timbering or any fence, guard or barricade that is required by this Act and the regulations to be provided in connection with a trench for the protection of persons without the per-

mission of the owner of the land on which the trench is excavated or, if the work on the trench is being done by a contractor, without the permission of the contractor. 1954, c. 99, s. 19.

**20.** No person shall work in a trench exceeding six feet in depth unless he is wearing a hat manufactured for the purpose of protecting persons from falling objects while working in a trench. 1954, c. 99, s. 20. Protective hats

**21.** No person shall be allowed to work alone in a trench exceeding twenty feet in depth unless another person is on duty outside the trench in close proximity to the part of the trench in which the other person is working. 1954, c. 99, s. 21; 1955, c. 89, s. 10. Solitary workers

**22.** No person under sixteen years of age shall be allowed to enter or work in a trench. 1954, c. 99, s. 22. Persons under 16

**23.** Nothing in this Act affects the authority of a municipality to pass by-laws relating to matters mentioned in this Act or affects any such by-law in so far as it imposes additional or more stringent requirements than those imposed by this Act and the regulations. 1954, c. 99, s. 23. By-laws

**24.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction, where a penalty for such offence is not otherwise provided, is liable to a fine of not more than \$500. 1954, c. 99, s. 24. Offence

**25.** Every fine collected for an offence under this Act committed in a local municipality shall be paid to the treasurer of the local municipality in which the offence was committed, and every fine collected for an offence under this Act committed in territory without municipal organization shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1954, c. 99, s. 25. Application of fines

**26.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) regulating the methods of shoring and timbering and the size, composition and arrangement of materials that shall be used therefor;
- (b) providing for fees to be paid for the inspection of trenches in territory without municipal organization and for the payment of the expenses of inspectors and prescribing the amounts of such fees and expenses to be paid;

- (c) providing for fees to be paid for the examination of drawings and specifications of shoring and timbering for trenches in territory without municipal organization required to be submitted to an inspector for approval, and prescribing the amounts of such fees;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1954, c. 99, s. 26.
-

## CHAPTER 408

## The Trustee Act

## 1. In this Act,

Interpre-  
tation

- (a) "assign" means the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring land of which such person is possessed, either for the whole estate of the person so possessed or for any less estate, and "assignment" has a corresponding meaning;
- (b) "contingent right" as applied to land includes a contingent and executory interest, and a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, and also a right of entry whether immediate or future, vested or contingent;
- (c) "convey" applied to a person means the execution and delivery by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seized, or wherein he is entitled to a contingent right, either for his whole estate or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, and "conveyance" has a corresponding meaning;
- (d) "devisee" includes the heir of a devisee, and the devisee of an heir, and any person who may claim right by devolution of title of a similar description;
- (e) "instrument" includes a deed, a will and a written document and an Act of the Legislature, but not a judgment or order of a court;
- (f) "land" includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any possibility, right or title of entry or action, and any other interest capable

of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;

- (g) "mental incompetent" or "mentally incompetent person" means any person who has been declared a mentally incompetent person;
- (h) "mortgage" is applicable to every estate, interest or property, in land or personal estate, that is merely a security for money, and "mortgagee" has a corresponding meaning and includes every person deriving title under the original mortgagee;
- (i) "person of unsound mind" means any person, not an infant, who, not having been declared a mentally incompetent person, is incapable, from infirmity of mind, to manage his own affairs;
- (j) "personal estate" includes leasehold estates and other chattels real, and also money, shares of Government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;
- (k) "personal representative" means an executor, an administrator, and an administrator with the will annexed;
- (l) "possessed" is applicable to any vested estate less than a life estate, legal or equitable, in possession or in expectancy, in any land;
- (m) "securities" includes stocks, funds and shares;
- (n) "seized" is applicable to any vested interest for life, or of a greater description, and extends to estates, legal and equitable, in possession, or in futurity, in any land;
- (o) "stock" includes fully paid-up shares, and any fund, annuity, or security transferable in books kept by any incorporated bank, company or society, or by instrument of transfer, either alone or accompanied by other formalities, and any share or interest therein;
- (p) "transfer", in relation to stock, includes the performance and execution of every deed, power of attorney, act or thing, on the part of the transferor to effect and complete the title in the transferee;



- (q) "trust" does not mean the duties incident to an estate conveyed by way of mortgage; but, with this exception, includes implied and constructive trusts and cases where the trustee has some beneficial estate or interest in the subject of the trust, and extends to and includes the duties incident to the office of personal representative of a deceased person, and "trustee" has a corresponding meaning and includes a trustee however appointed and several joint trustees;
- (r) "will" includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants Act*,<sup>R.S.O. 1960, c. 187</sup> and any other testamentary disposition. R.S.O. 1950, c. 400, s. 1.

#### RETIREMENT OF TRUSTEES

**2.—**(1) Where there are more than two trustees, if one of them by deed declares that he desires to be discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee who desires to be discharged shall be deemed to have retired from the trust, and is, by the deed, discharged therefrom under this Act without any new trustee being appointed in his place.

Retirement  
of trustees

(2) This section does not apply to executors or administrators. R.S.O. 1950, c. 400, s. 2.

Application  
of section

#### APPOINTMENT OF NEW TRUSTEES

**3.—**(1) Where a trustee dies or remains out of Ontario for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, or has been convicted of an indictable offence or is bankrupt or insolvent, the person nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee, may by writing appoint another person or other persons (whether or not being the persons exercising the power) to be a trustee or trustees in the place of the trustee dying, remaining out of Ontario, desiring to be discharged, refusing or being unfit or incapable.

Power of ap-  
pointing new  
trustees

Survivor-  
ship

(2) Until the appointment of new trustees, the personal representatives or representative for the time being of a sole trustee, or where there were two or more trustees, of the last surviving or continuing trustee, are or is capable of exercising or performing any power or trust that was given to or capable of being exercised by the sole or last surviving trustee. R.S.O. 1950, c. 400, s. 3.

Authority  
of surviving  
trustee to  
appoint  
successor  
by will

4. Subject to the terms of any instrument creating a trust, the sole trustee or the last surviving or continuing trustee appointed for the administration of the trust may appoint by will another person or other persons to be a trustee or trustees in the place of the sole or surviving or continuing trustee after his death. R.S.O. 1950, c. 400, s. 4.

Power of  
court to  
appoint new  
trustees

5.—(1) The Supreme Court may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

Limitation  
of effect  
of order

(2) An order under this section and any consequential vesting order or conveyance does not operate as a discharge from liability for the acts or omissions of the former or continuing trustees. R.S.O. 1950, c. 400, s. 5.

What may  
be done:

6. On the appointment of a new trustee for the whole or any part of trust property,

increase in  
number

(a) the number of trustees may be increased; and

separate  
trustees  
for distinct  
trusts

(b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first-mentioned part; and

where not  
less than  
two to be  
appointed

(c) it is not obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under section 3 from his trust unless there will be a trust company or at least two individuals as trustees to perform the trust; and

- (d) any assurance or thing requisite for vesting the trust <sup>execution and performance of requisite deeds and acts</sup> property, or any part thereof, in the person who is the trustee, or jointly in the persons who are the trustees, shall be executed or done. R.S.O. 1950, c. 400, s. 6.

**7.** Every new trustee so appointed, as well before as after <sup>Powers of new trustee</sup> all the trust property becomes by law or by assurance or otherwise vested in him, has the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust. R.S.O. 1950, c. 400, s. 7.

**8.** The provisions of this Act relative to the appointment <sup>Application of Act</sup> of new trustees apply to the case of a person nominated trustee in a will but dying before the testator. R.S.O. 1950, c. 400, s. 8.

#### VESTING INSTRUMENTS

**9.—(1)** Where an instrument, executed after the 1st day <sup>Vesting of trust property in new or continuing trustees without conveyance</sup> of July, 1886, by which a new trustee is appointed to perform any trust, contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any personal estate so subject, shall vest in the person or persons who, by virtue of such instrument, shall become and be the trustee or trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in him, or in them as joint tenants, and for the purposes of the trust, that estate, interest or right.

(2) Where such an instrument, by which a retiring trustee <sup>On retirement of a trustee</sup> is discharged under this Act, contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone as joint tenants, and for the purposes of the trust, the estate, interest or right to which the declaration relates.

(3) This section does not extend to land conveyed by way <sup>Application to mortgages, stocks, shares, etc.</sup> of mortgage for securing money subject to the trust, or to any share, stock, annuity, or property transferable only in books kept by a company or other body, or in manner prescribed by or under an Act of the Parliament of Canada or of the Legislature.

(4) For the purpose of registration the person or persons <sup>Interpretation for registration purposes</sup> making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made

by him or them under a power conferred by this Act. R.S.O. 1950, c. 400, s. 9.

VESTING ORDERS, ORDERS RELEASING CONTINGENT RIGHTS, ETC.

Vesting  
orders

**10.**—(1) In any of the following cases:

- (a) where the Supreme Court appoints or has appointed a new trustee; or
- (b) where a trustee entitled to or possessed of any land, or entitled to a contingent right therein, either solely or jointly with any other person is an infant, or is out of Ontario, or cannot be found; or
- (c) where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land; or
- (d) where it is uncertain whether the last trustee known to have been entitled to or possessed of any land is living or dead; or
- (e) where there is no heir or personal representative of a trustee who was entitled to or possessed of land and has died intestate as to that land, or where it is uncertain who is the heir or personal representative or devisee of a trustee who was entitled to or possessed of land and is dead; or
- (f) where a trustee jointly or solely entitled to or possessed of any land, or entitled to a contingent right therein, has been required by or on behalf of a person entitled to require a conveyance of the land or a release of the right, to convey the land or to release the right, and has wilfully refused or neglected to convey the land or release the right for fourteen days after the date of the requirement,

the Supreme Court may make an order, vesting the land in any such person in any such manner, and for any such estate, as the court may direct, or releasing, or disposing of the contingent right to such person as the court may direct.

Vesting of  
estate

(2) Where the order is consequential on the appointment of a new trustee the land shall be vested for such estate as the court may direct in the persons who, on the appointment, are the trustees.

Where  
trustee out  
of Ontario

(3) Where the order relates to a trustee entitled jointly with another person, and such trustee is out of Ontario or cannot be found, the land or right shall be vested in such other person, either alone or with some other person. R.S.O. 1950, c. 400, s. 10.

**11.** Where any land is subject to a contingent right in an unborn person, or a class of unborn persons, who, on coming into existence, would, in respect thereof, become entitled to or possessed of the land on any trust, the Supreme Court may make an order releasing the land from the contingent right, or may make an order vesting in any person the estate to or of which the unborn person, or class of unborn persons, would, on coming into existence, be entitled or possessed in the land. R.S.O. 1950, c. 400, s. 11.

Orders as to  
contingent  
rights of  
unborn  
persons

**12.** Where any person entitled to or possessed of land, or entitled to any contingent right in land, by way of security for money, is an infant, the Supreme Court may make an order vesting or releasing or disposing of the land or right in like manner as in the case of an infant trustee. R.S.O. 1950, c. 400, s. 12.

Vesting  
order in  
place of  
conveyance  
by infant  
mortgagee

**13.—(1)** In any of the following cases:

Vesting  
orders as to  
stock and  
choses in  
action

- (a) where the Supreme Court appoints, or has appointed, a new trustee; or
- (b) where a trustee entitled alone, or jointly with another person, to stock or to a chose in action,
  - (i) is an infant, or
  - (ii) is out of Ontario, or
  - (iii) cannot be found, or
  - (iv) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action, according to the direction of the person absolutely entitled thereto, for fourteen days next after a request in writing has been made to him by the person so entitled, or
  - (v) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action for fourteen days next after an order of the Supreme Court for that purpose has been served on him; or
- (c) where it is uncertain whether a trustee entitled alone, or jointly with another person, to stock or to a chose in action is alive or dead,

the Supreme Court may make an order vesting the right to transfer, or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover a chose in action, in any such person as the court may appoint.

Vesting in  
new  
trustee

(2) Where the order is consequential on the appointment by the court of a new trustee, the right shall be vested in the persons who, on the appointment, are the trustees.

Vesting  
in person  
having joint  
interest

(3) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone, or jointly with any other person whom the court may appoint.

Appoint-  
ment of  
person to  
transfer

(4) Where a vesting order may be made under this section the court may, if it is more convenient, appoint some proper person to make, or join in making, the transfer.

Transfer,  
how to be  
made

(5) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under this Act may transfer the stock to himself, or any other person, according to the order, and all incorporated banks and all companies shall obey every order made under this section.

After notice  
of order, no  
transfer to  
be made  
contrary  
thereto

(6) After notice in writing of an order under this section it is not lawful for any incorporated bank or any company to transfer any stock to which the order relates, or to pay any dividends thereon except in accordance with the order.

Court may  
make  
declaration

(7) The Supreme Court may make declarations and give directions concerning the manner in which the right to any stock, or chose in action, vested under this Act, is to be exercised.

Ships,  
shares in

(8) The provisions of this Act as to vesting orders apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock. R.S.O. 1950, c. 400, s. 13.

#### TRUSTEES FOR CHARITIES

Exercise of  
powers in  
favour of  
charities, etc.

**14.** The Supreme Court may exercise the powers herein conferred for the purpose of vesting any land or personal estate in the trustee of any charity or society over which the court would have jurisdiction upon action duly instituted. R.S.O. 1950, c. 400, s. 14.

Power to  
order a sale  
in proper  
cases

**15.—(1)** Where land is held by trustees for a charitable purpose and it is made to appear that the land can be no longer advantageously used for such charitable purpose or that for any other reason the land ought to be sold, a judge of the Supreme Court may make an order authorizing the sale thereof and may give such directions in relation thereto and for securing the due investment and application of the money arising from the sale as may be deemed proper.

Notice to  
Public  
Trustee

(2) No such order shall be made unless notice of the application has been given to the Public Trustee. R.S.O. 1950, c. 400, s. 15.

## WHO MAY APPLY

**16.**—(1) An order under this Act for the appointment of a new trustee, or concerning any land or personal estate, subject to a trust, may be made upon the application of any person beneficially interested therein, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof.

Who may apply for appointment of new trustee, or vesting order, etc.

(2) An order concerning any land or personal estate, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by the mortgage. R.S.O. 1950, c. 400, s. 16.

In case of mortgaged property

## CERTAIN POWERS AND RIGHTS OF TRUSTEES

*Purchase and Sale*

**17.** Subject to *The Devolution of Estates Act* where a trust for sale or a power of sale of land or personal estate is vested in a trustee he may sell or concur with any other person in selling all or any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract subject to such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to resell, without being answerable for any loss. R.S.O. 1950, c. 400, s. 17.

Power and discretion of trustee for sale  
R.S.O. 1960, c. 106

**18.**—(1) A sale made by a trustee shall not be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

Sales by trustees not impeachable on certain grounds

(2) Such sale shall not, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for the sale was made. R.S.O. 1950, c. 400, s. 18.

Collusion between purchaser and trustee

*Dedication or Sale for Highway Purposes*

**19.** With the approval of the Ontario Municipal Board or of a judge of the Supreme Court, a person who holds land or a charge or claim against it or has control of the legal title, upon any trust or for a specified or particular purpose, may,

Dedication or sale of land by trustee for municipal highway

to the extent of his estate or interest, dedicate or sell, or join in dedicating or selling, to the corporation of the municipality within which it is situate, any portion of the land required by the corporation for the work of establishing, extending, widening or diverting a street, and the Board or the judge may approve thereof if it appears that it will not have the effect of defeating or seriously affecting the substantial objects or intent of the trust or purpose; provided that the approval is not necessary if such dedication or sale is otherwise within such person's powers. R.S.O. 1950, c. 400, s. 19.

### *Agents*

Power to  
authorize  
receipt of  
money by  
solicitor

**20.**—(1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust.

By banker

(2) A trustee may appoint a manager or a branch manager of a chartered bank or a solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance or otherwise.

Appoint-  
ment not a  
breach of  
trust

(3) A trustee shall not be charged with a breach of trust by reason only of his having made or concurred in making any such appointment.

Liability of  
trustee, in  
certain  
cases, not  
affected

(4) Nothing in this section exempts a trustee from any liability that he would have incurred if this Act had not been passed, in case he permits any such money, valuable consideration, or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor to pay or transfer the same to the trustee. R.S.O. 1950, c. 400, s. 20.

### *Insurance*

Power to  
insure  
buildings

**21.**—(1) A trustee may insure against loss or damage by fire, tempest or other casualty, any building or other insurable property to any amount, including the amount of any insurance already on foot, not exceeding three-fourths of the value of such building or property, and pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income.

Application

(2) This section does not apply to any building or property that a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so. R.S.O. 1950, c. 400, s. 21.



*Renewals of Leases*

**22.**—(1) A trustee of any leaseholds for lives or years that are renewable from time to time may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future or contingent, in the leaseholds, use his best endeavours to obtain from time to time a renewed lease of the same land on reasonable terms, and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting, and do all such other acts as are requisite; but where, by the terms of the settlement or will, the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section does not apply unless the consent in writing of that person is obtained to the renewal on the part of the trustee.

Power of trustees of renewable leaseholds to renew

(2) If money is required to pay for the renewal the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the land to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose he may raise the money required by mortgage of the land to be comprised in the renewed lease, or of any other land for the time being subject to the uses or trusts to which that land is subject, and no person advancing money upon a mortgage purporting to be made under this power is bound to see that the money is wanted, or that no more is raised than is wanted for the purpose or to see to the due application of the money. R.S.O. 1950, c. 400, s. 22.

to raise money for the purpose

*Passing of Accounts*

**23.**—(1) A trustee desiring to pass the accounts of his dealings with the trust estate may file his accounts in the office of the surrogate court of a county or district in which he or a co-trustee is resident or in which any part of the trust estate is situate, and the proceedings and practice upon the passing of such accounts shall be the same and have the like effect as the passing of executors' or administrators' accounts in the surrogate court; but in the case of trustees under a will the accounts shall be filed and passed in the office of the surrogate court by which probate of the will was granted.

When trustee may file accounts

(2) Where the compensation payable to a trustee has not been fixed by the instrument creating the trust or otherwise, the judge of the surrogate court upon the passing of the accounts of the trustee has power to fix the amount of compensation payable to the trustee and the trustee is there-

Fixing compensation of trustee

upon entitled to retain out of any moneys in his hands the amount so determined. R.S.O. 1950, c. 400, s. 23.

### *Receipts*

Receipts of  
trustees to  
be effectual  
discharges

**24.** The payment of any money to and the receipt thereof by any person to whom the same is payable upon any trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof. R.S.O. 1950, c. 400, s. 24.

### *Surviving Trustee*

Powers of  
two or more  
trustees

**25.** Where a power or trust is given to or vested in two or more trustees jointly it may be exercised or performed by the survivor or survivors of them for the time being. R.S.O. 1950, c. 400, s. 25.

### INVESTMENTS

Authorized  
investments

**26.** A trustee may invest any trust money in his hands in the classes of securities mentioned in this section, but only if the investment is in other respects reasonable and proper,

government  
and municip-  
al securities

(a) bonds, debentures or other evidences of indebtedness,

(i) of or guaranteed by the Government of Canada,

(ii) of or guaranteed by the government of any province of Canada,

(iii) of or guaranteed by the Government of the United Kingdom,

(iv) of any municipal corporation in Canada, including debentures issued for public, separate, high or vocational school purposes, or guaranteed by any municipal corporation in Ontario, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectible by or through the municipality in which such property is situated;

mortgages  
on real  
estate

(b) first mortgages, charges or hypothecs upon real estate in Canada;

- (c) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity; Dominion subsidy bonds
- (d) debentures of any loan corporation that is registered under *The Loan and Trust Corporations Act*; loan company debentures R.S.O. 1960, c. 222
- (e) guaranteed investment certificates of any trust company that is registered under *The Loan and Trust Corporations Act*. 1952, c. 109, s. 1, *part*. trust company guaranteed investments

**27.—(1)** In addition to the investments authorized by section 26, the Supreme Court may, if it thinks fit, by order authorize a trustee holding trust money for investment to invest such moneys in the following classes of investments, but only if the investment is in other respects reasonable and proper and is made in accordance with subsections 2, 3 and 4, Other investments authorized by S.C.O.

- (a) bonds, debentures, debenture stock or other securities of any corporation incorporated by Canada, or by any province of Canada, or by any former province now forming part of Canada, that are secured by a mortgage or hypothec to a trust company either singly or jointly with another trustee upon improved real estate of such corporation or other assets of such corporation of the classes mentioned in this section or in section 26; bonds secured by deed
- (b) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that are payable, by virtue of an Act of a province of Canada, by or under the authority of the province, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity; provincial subsidy bonds
- (c) bonds, debentures or other evidences of indebtedness of a corporation that has paid, corporation securities
- (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

- (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

preferred  
shares

- (d) preferred shares of a corporation that has paid,
  - (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
  - (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

common  
shares

- (e) fully paid common shares of a corporation that, in each year of a period of seven years ended less than one year before the date of investment, has paid a dividend upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid.

Limitation

(2) No investment shall be made under this section that, at the time of making such investment, would cause the aggregate market value of the investments made under this section to exceed 35 per cent of the market value at that time of the whole trust estate, and, if in any estate or trust the trustee has retained, under the authority of the trust instrument, investments that had been acquired by the testator or settlor and that come within any of the classes authorized by this section, such investments shall be deemed to have been made under this section.

Change in  
market  
values

(3) No sale or other liquidation of any investment made under this section shall be required solely because of any change in the ratio between the market value of such investments and the market value of the whole trust estate.

Market  
values

(4) In determining market values for the purpose of this section, a trustee may rely upon published market quotations as to those investments for which such quotations are available, and upon such valuations of other investments as in his judgment seem fair and reasonable according to available information. 1960, c. 126, s. 1.

**28.** A trustee may, pending the investment of any trust money, deposit it during such time as is reasonable in the circumstances in any chartered bank of Canada, or in the Province of Ontario Savings Office, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*. 1952, c. 109, s. 1, *part*. Power to deposit trust money R.S.O. 1960, c. 222

**29.** A trustee may from time to time vary or transpose any securities in which money in his hands is invested, whether under the authority of this Act or otherwise, into or for any other securities of any nature authorized by this Act. R.S.O. 1950, c. 400, s. 28. Power to vary or transpose securities

**30.** A trustee lending money upon the security of any property upon which he may lawfully lend is not chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be a competent valuator, instructed and employed independently of any owner of the property, whether such valuator carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed 60 per cent of the value of the property as stated in the report and that it was made under the advice of the valuator expressed in the report. R.S.O. 1950, c. 400, s. 29. When trustee not chargeable for lending on insufficient security

**31.** Where a trustee has improperly advanced money on a mortgage security which would, at the time of the investment, have been a proper investment in all respects for a less sum than was actually advanced the security shall be deemed an authorized investment for such less sum, and the trustee is only liable to make good the sum advanced in excess thereof with interest. R.S.O. 1950, c. 400, s. 30. Trustee lending more than authorized amount

**32.** A trustee is not chargeable with breach of trust by reason only of his continuing to hold an investment that has ceased to be an investment authorized by the instrument of trust or by the general law. R.S.O. 1950, c. 400, s. 31. Liability in case of change of character of investment

#### PROTECTION AND INDEMNITY

**33.** A trustee is chargeable only for money and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and is answerable and accountable only for his own acts, receipts, neglects or defaults, and not for those of any other trustee, nor for any banker, Extent of liability of trustees

broker or other person with whom any trust money or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any other loss, unless the same happens through his own wilful default, and may reimburse himself or pay or discharge out of the trust property all expenses incurred in or about the execution of his trust or powers. R.S.O. 1950, c. 400, s. 32.

Trustees committing breach of trust at instigation of beneficiary

**34.**—(1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Supreme Court may make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

Application to separate estate of married women

(2) This section applies notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation. R.S.O. 1950, c. 400, s. 33.

#### TECHNICAL BREACHES OF TRUST

Relief of trustees committing technical breach of trust

**35.** If in any proceeding affecting a trustee or trust property it appears to the court that a trustee, or that any person who may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach of trust whenever the transaction alleged or found to be a breach of trust occurred, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed the breach, the court may relieve the trustee either wholly or partly from personal liability for the same. R.S.O. 1950, c. 400, s. 34.

#### PAYMENT INTO COURT

Payment into court by trustees of trust funds or securities by order of court

**36.**—(1) Where any money belonging to a trust is in the hands or under the control of or is vested in a sole trustee or several trustees and it is the desire of the trustee, or of the majority of the trustees, to pay the money into court, the Supreme Court may order the payment into court to be made by the sole trustee, or by the majority of the trustees, without the concurrence of the other or others if the concurrence cannot be obtained.

Payment or delivery to Accountant of court

(2) Where any such money is deposited with a banker or broker or other depository the court may order payment thereof to the Accountant of the Supreme Court, and payment made in pursuance of such order is valid and takes effect as if it had been made on the authority or by the act of all the persons entitled to the money paid.

(3) Where the trustee has been absent from Ontario for a year and is not likely to return at an early date, or in the event of the trustee's death, or where the trustee in Ontario cannot give an acquittance of the money, any person with whom trust money has been deposited or to whose hands trust money has come may make an application similar to that authorized by subsection 1.

Payment into court by persons holding trust moneys for trustee

(4) Where, on the passing of the final accounts of a personal representative, guardian or trustee by the judge of a surrogate court, there is found to be in the hands of such personal representative, guardian or trustee any money belonging to an infant or to a mentally incompetent person or person of unsound mind, or to a person whose address is unknown, it is the duty of such personal representative, guardian or trustee to pay the money into the Supreme Court to the credit of the person who is entitled to it.

Money found to be due infant, etc., on final passing of accounts in surrogate court to be paid into court

(5) A certified copy of the order or report of the judge shall be left with the Accountant when the money is paid in, and the person paying it in is entitled to deduct \$5 for his costs.

Accountant to be furnished with copy of order, etc.

(6) Where an infant, mentally incompetent person or person of unsound mind is entitled to any money, the person by whom such money is payable may pay it into the Supreme Court to the credit of such infant, mentally incompetent person or person of unsound mind and this is a sufficient discharge for the money so paid into court.

Moneys to which infant or mentally incompetent person entitled

(7) Where a trustee desires to be relieved from his trust the court may order all securities held for the trust to be transferred to the Public Trustee.

Transfer of trust

(8) Money paid into court is subject to the order of the court.

Disposition

(9) Where, however, the person to whom money is due, as mentioned in subsections 4 and 6, is a patient in a hospital for mentally ill, mentally defective or epileptic persons and the Public Trustee is committee of his estate, the money due shall be paid over to the Public Trustee. R.S.O. 1950, c. 400, s. 35.

Patient in mental hospital

#### PERSONAL REPRESENTATIVES AND DEVISEES IN TRUST

##### *Removal of Personal Representatives*

**37.**—(1) The Supreme Court may remove a personal representative upon any ground upon which the court may remove any other trustee, and may appoint some other proper person or persons to act in the place of the executor or administrator so removed.

Power of court to remove

Security by  
person  
appointed

R.S.O. 1960,  
c. 388

(2) Every person so appointed shall, unless the court otherwise orders, give such security as he would be required to give if letters of administration were granted to him under *The Surrogate Courts Act*.

Who may  
apply

(3) The order may be made upon the application of any executor or administrator desiring to be relieved from the duties of the office, or of any executor or administrator complaining of the conduct of a co-executor or co-administrator, or of any person interested in the estate of the deceased.

Procedure

(4) Subject to any Rules of court, the practice in force for the removal of any other trustee shall be applicable to proceedings to be taken in the Supreme Court under this section.

When new  
appointment  
unnecessary

(5) Where the executor or administrator removed is not a sole executor or administrator the court need not, unless it sees fit, appoint any person to act in the place of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed passes to the remaining executor or administrator as if the person so removed had died.

Chain of  
representation

(6) The executor of any person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors.

Copy of  
order to be  
filed with  
Registrar

(7) A certified copy of the order of removal shall be filed with the Registrar of the Supreme Court, and another copy with the registrar of the surrogate court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers of their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where the grant is indexed.

Endorse-  
ment

(8) The date of the grant shall be endorsed on the copy of the order filed with the Registrar of the Supreme Court.

Jurisdiction  
of surrogate  
court

(9) Where the estate is less than \$1,000, the jurisdiction conferred by this section may be exercised by the surrogate court. R.S.O. 1950, c. 400, s. 36.

#### RIGHTS AND LIABILITIES OF PERSONAL REPRESENTATIVES

Actions by  
executors  
and  
adminis-  
trators for  
torts

**38.**—(1) Except in cases of libel and slander, the executor or administrator of any deceased person may maintain an action for all torts or injuries to the person or to the property of the deceased in the same manner and with the same rights and remedies as the deceased would, if living, have been entitled to do, and the damages when recovered shall form



part of the personal estate of the deceased; provided that if death results from such injuries no damages shall be allowed for the death or for the loss of the expectation of life, but this proviso is not in derogation of any rights conferred by *The Fatal Accidents Act.* R.S.O. 1960, c. 138

(2) Except in cases of libel and slander, if a deceased person committed a wrong to another in respect of his person or property, the person wronged may maintain an action against the executor or administrator of the person who committed the wrong. Actions against executors and administrators for torts R.S.O. 1950, c. 400, s. 37 (1, 2).

(3) Where a person wronged is unable to maintain an action under subsection 2 because neither letters probate of the will of the deceased person nor letters of administration of the deceased person's estate have been granted within six months after the death, a judge of the Supreme Court may, on the application of the person wronged and on such notice as he may deem proper, appoint an administrator *ad litem* of the estate of the deceased person, whereupon,

- (a) the administrator *ad litem* shall be deemed to be an administrator against whom an action may be brought under subsection 2; and
- (b) any judgment in favour of or against the administrator *ad litem* in any such action has the same effect as a judgment in favour of or against, as the case may be, the deceased person, but it has no effect whatsoever for or against the administrator *ad litem* in his personal capacity. 1951, c. 88, s. 1 (1); 1956, c. 91, s. 1.

(4) An action under this section shall not be brought after the expiration of one year from the death of the deceased. Limitation of actions R.S.O. 1950, c. 400, s. 37 (3).

**39.** A personal representative has an action of account as the testator or intestate might have had if he had lived. Action of account R.S.O. 1950, c. 400, s. 38.

**40.** An administrator with the will annexed or an executor to whom probate is granted has all the power conferred by the testator upon the executor named in his will and may in all respects act as effectually as though he alone had been named by the testator as his sole executor. Powers of executor to whom probate granted R.S.O. 1950, c. 400, s. 39.

#### *Execution of Powers*

**41.** Where there is in a will a direction, express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any land, and no person is by the will or otherwise by the testator Who may execute direction to sell, etc., where no other person is appointed

appointed to execute and carry the same into effect the executor, if any, named in the will may execute and carry into effect every such direction in respect of such land and any estate or interest therein in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1950, c. 400, s. 40.

Idem

**42.** Where from any cause a court of competent jurisdiction has committed to a person, who has given security to the satisfaction of such court for his dealing with such land and its proceeds, letters of administration with a will annexed which contains an express or implied power to sell, dispose of, appoint, mortgage, encumber or lease any land, whether such power is conferred on an executor named in the will or the testator has not by the will or otherwise appointed a person to execute it, the administrator may exercise the power in respect of such land in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1950, c. 400, s. 41.

#### *Land Contracts of Deceased*

Conveyance  
by personal  
representa-  
tive in pur-  
sue of a  
contract by  
deceased

**43.** Where a person has entered into a contract in writing for the sale and conveyance of land and has died intestate or without providing by will for the conveyance of such land to the person entitled or to become entitled to such conveyance, and where the deceased would be bound, were he alive, to execute a conveyance, his personal representative shall make and give to the person entitled to the same a good and sufficient conveyance of such land, of such nature as the deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor, and the conveyance is as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but does not have any further validity or effect. R.S.O. 1950, c. 400, s. 42.

#### *Devises in Trust*

Power to  
raise money  
by sale or  
mortgage  
to satisfy  
charges

**44.—(1)** Where by any will coming into operation after the 18th day of September, 1865, a testator charges his land, or any specific part thereof, with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the land so charged to his executors or to a trustee without any express provision for the raising of such debt, legacy or sum of money out of such land, the devisee may raise such debt, legacy or money by a sale of such land or any part thereof, or by a mortgage of the same.

(2) Purchasers or mortgagees are not bound to inquire whether the powers conferred by this section, or any of them, have been duly and correctly exercised by the person acting in virtue thereof. R.S.O. 1950, c. 400, s. 43.

**45.** Every personal representative, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, is subject to all the liabilities, and compellable to discharge all the duties which, as respects the acts to be done by him under such powers, would have been imposed upon a person appointed by the testator, or would have been imposed by law upon any person appointed by law, or by any court of competent jurisdiction to execute such power. R.S.O. 1950, c. 400, s. 44.

**46.—**(1) Where there are several personal representatives and one or more of them dies, the powers conferred upon them shall vest in the survivor or survivors, unless there is some provision to the contrary in the will.

(2) Until the appointment of new personal representatives, the personal representatives or representative for the time being of a sole personal representative, or, where there were two or more personal representatives, of the last surviving or continuing personal representative, shall be capable of exercising or performing any power or trust which was given to, or capable of being exercised by the sole or last surviving personal representative. R.S.O. 1950, c. 400, s. 45.

#### EFFECT OF REVOCATION OF AN ERRONEOUS GRANT

**47.—**(1) Where a court of competent jurisdiction has admitted a will to probate, or has appointed an administrator, notwithstanding that the grant of probate or the appointment may be subsequently revoked as having been erroneously made, all acts done under the authority of the probate or appointment, including all payments made in good faith to or by the personal representative, are as valid and effectual as if the same had been rightly granted or made; but upon revocation of the probate or appointment, in cases of an erroneous presumption of death, the supposed decedent, and in other cases the new personal representative may, subject to subsections 2 and 3, recover from the person who acted under the revoked grant or appointment any part of the estate remaining in his hands undistributed and, subject to *The Limitations Act*, from any person who erroneously received any part of the estate as a devisee, legatee or one of the next of kin, or as a husband or wife of the decedent or supposed decedent, the part so received or the value thereof.

Expenses

(2) The person acting under the revoked probate or appointment may retain out of any part of the estate remaining in his hands undistributed his proper costs and expenses incurred in the administration.

Fraud

(3) Nothing in this section protects any person acting as personal representative where he has been party or privy to any fraud whereby the grant or appointment has been obtained, or after he has become aware of any fact by reason of which revocation thereof is ordered unless, in the latter case, he acts in pursuance of a contract for valuable consideration and otherwise binding made before he became aware of such fact. R.S.O. 1950, c. 400, s. 46.

## ADMINISTRATION OF ESTATES

Power, to  
pay debts

**48.—**(1) A personal representative may pay or allow any debt or claim on any evidence that he thinks sufficient.

to com-  
pound, etc.

(2) A personal representative, or two or more trustees acting together, or a sole acting trustee, where, by the instrument, if any, creating the trust, a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed, and may allow any time for payment for any debt, and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing done by him or them in good faith. R.S.O. 1950, c. 400, s. 47.

In case of  
deficiency  
of assets,  
debts to rank  
*pari passu*

**49.—**(1) On the administration of the estate of a deceased person, in the case of a deficiency of assets, debts due to the Crown and to the personal representative of the deceased person, and debts to others, including therein debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as are payable in like order of administration as simple contract debts shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein prejudices any lien existing during the lifetime of the debtor on any of his property.

Overpay-  
ment to  
creditor

(2) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under

subsection 1, the overpayment does not entitle any other creditor or claimant to recover more than the amount to which he would be entitled if the overpayment had not been made.

(3) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection 1, the court may relieve the personal representative either wholly or partly from personal liability if it is satisfied that he has acted honestly and reasonably and for the protection or conservation of the assets of the estate. R.S.O. 1950, c. 400, s. 48.

Relief from  
personal  
liability

**50.**—(1) Where a personal representative, liable as such to the rents, or upon the covenants or agreements contained in a lease or agreement for a lease granted or assigned to the testator or intestate, has satisfied all liabilities under the lease or agreement for a lease, which accrued due and were claimed up to the time of the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for lease, to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the parties entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any future liability under the lease or agreement for lease.

As to liability  
of executor  
or adminis-  
trator in  
respect of  
covenants,  
etc., in  
leases

(2) The personal representative so distributing the residuary estate is not personally liable in respect of any subsequent claim under the lease or agreement for lease.

No personal  
liability for  
subsequent  
claim

(3) Nothing in this section prejudices the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1950, c. 400, s. 49.

Right to  
follow assets  
not affected

**51.**—(1) Where a personal representative, liable as such to the rent or upon the covenants or agreements contained in any conveyance on chief rent or rent-charge, whether any such rent is by limitation of use, grant or reservation, or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate, has satisfied all liabilities under the conveyance, or agreement for a conveyance, which accrued due and were claimed up to the time of the conveyance by him hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum coven-

As to liability  
of personal  
representa-  
tive in  
respect of  
rents, etc., in  
conveyances  
on rent-  
charge, etc.

anted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned such agreement for conveyance to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the persons entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any further liability under the conveyance or agreement for conveyance.

No personal liability for any subsequent claim

(2) A personal representative so distributing the residuary estate is not personally liable in respect of any subsequent claim under the conveyance or agreement for conveyance.

Right of grantor, etc., to follow assets not affected

(3) Nothing in this section prejudices the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1950, c. 400, s. 50.

Distribution of assets under trust deeds for benefit of creditors, or of the assets of intestate

**52.—**(1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or of a particular class or classes of creditors, where the creditors are not designated by name therein, or a personal representative has given such or the like notices as, in the opinion of the court in which such trustee, assignee, or personal representative is sought to be charged, would have been directed to be given by the Supreme Court in an action for the execution of the trusts of such deed or assignment, or in an administration suit, for creditors and others to send in to such trustee, assignee, or personal representative, their claims against the person for the benefit of whose creditors such deed or assignment is made, or against the estate of the testator or intestate, as the case may be, at the expiration of the time named in the notices, or the last of the notices, for sending in such claims, he may distribute the proceeds of the trust estate, or the assets of the testator or intestate, as the case may be, or any part thereof among the persons entitled thereto, having regard to the claims of which he has then notice, and shall not be liable for the proceeds of the trust estate, or assets, or any part thereof so distributed to any person of whose claim he had not notice at the time of the distribution.

Right of creditor to follow assets not affected

(2) Nothing in this section prejudices the right of any creditor or claimant to follow the proceeds of the trust estate, or assets, or any part thereof into the hands of persons who have received the same.

Subs. 1 not to apply to heirs, etc.

(3) Subsection 1 does not apply to heirs, next of kin, devisees or legatees claiming as such. R.S.O. 1950, c. 400, s. 51.

**53.** Property over which a deceased person had a general power of appointment, which he might have exercised for his own benefit without the assent of any other person, shall be assets for the payment of his debts where the same is appointed by his will, and, under an execution against the personal representatives of such deceased person, such assets may be seized and sold after the deceased person's own property has been exhausted. R.S.O. 1950, c. 400, s. 52.

**54.—(1)** When a person dies having by will appointed an executor, the executor, in respect of any residue not expressly disposed of, shall be deemed to be a trustee for the person, if any, who would be entitled to the estate under *The Devolution of Estates Act* in case of an intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

(2) Nothing in this section prejudices any right in respect of any residue not expressly disposed of to which, if this Act had not been passed, an executor would have been entitled where there is not any person who would be entitled to the testator's estate under *The Devolution of Estates Act* in case of an intestacy. R.S.O. 1950, c. 400, s. 53.

**55.** Executors of executors have the same actions for the debts and property of the first testator as he would have had if in life, and are answerable for such of the debts and property of the first testator as they recover as the first executors would be if they had recovered the same. R.S.O. 1950, c. 400, s. 54.

**56.** The personal representative of any person who, as executor or as executor in his own wrong, or as administrator, wastes or converts to his own use any part of the estate of any deceased person is liable and chargeable in the same manner as his testator or intestate would have been if he had been living. R.S.O. 1950, c. 400, s. 55.

**57.—(1)** On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor holding security on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, shall place a value on such security and the creditor shall rank upon the distribution of assets only upon the unsecured portion of his claim after deducting the value of the security, unless the personal representative elects to take over the security as hereinafter provided.

Where  
personal  
representa-  
tive requires  
creditor to  
prove claim

(2) Where the personal representative of a deceased person is of the opinion that there may be a deficiency of assets, he may require any creditor to prove his claim and to state whether he holds any security for his claim or any part thereof, and to give full particulars of the same and if such security is on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, to place a specified value on such security and the personal representative may either consent to the creditor ranking for the amount of his claim after deducting such valuation or may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the personal representative has realized upon such security or is in a position to make payment out of the assets of the estate and in either case the difference between the value at which the security is retained or taken, as the case may be, and the amount of the claim of the creditor, shall be the amount for which he ranks upon the estate of the deceased debtor.

Inspectors,  
directing of;  
remunera-  
tion of

(3) Where inspectors have been appointed as hereinafter provided or where the estate is being administered under the direction of or by a court, the personal representative in making his election shall act under the direction of the inspectors or of the court, as the case may be, and the remuneration of the inspectors shall be determined by the surrogate court judge on the passing of accounts.

Where claim  
based on  
negotiable  
instruments

(4) If the claim of the creditor is based upon a negotiable instrument upon which the estate of the deceased debtor is only indirectly or secondarily liable and which is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as his security for the payment thereof, but after the maturity of such liability and its non-payment he is entitled to amend and revalue his claim. R.S.O. 1950, c. 400, s. 56.

When  
creditor  
holding  
security  
fails to  
value same

**58.**—(1) Where a creditor fails to value any security held by him which under this Act he is called upon to value, the personal representative may apply in a summary way to the judge of the surrogate court from which probate or letters of administration were issued for an order that unless a specified value is placed on such security and notified in writing to the personal representative, within a time to be limited by the order, such claimant, in respect of the claim or the part thereof for which security is held, is wholly barred of any right to share in the proceeds of the estate unless the judge



upon the application of the creditor extends the time for the valuation of the security.

(2) Where an estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by this section upon the judge of the surrogate court. R.S.O. 1950, c. 400, s. 57.

**59.**—(1) Where in the administration of the estate of a deceased person the personal representative fears that there may be a deficiency of assets or that all the creditors will not be paid in full, the personal representative may call a meeting of creditors and lay before them the situation of the estate and at such meeting inspectors may be appointed by the creditors to assist the personal representative in the administration of the estate and to advise him with respect thereto.

(2) In any such case the personal representative shall call a meeting of creditors for the purpose aforesaid at the request in writing of creditors holding 10 per cent of the amount of claims filed against the estate.

(3) In cases where no meeting of creditors has been held the personal representative may appoint a creditor or creditors as inspector or inspectors to assist him in the realizing and management of the estate but in such case the appointment shall be approved by the surrogate judge before the inspectors accept office. R.S.O. 1950, c. 400, s. 58.

#### APPLICATIONS TO COURT FOR ADVICE

**60.**—(1) A trustee, guardian or personal representative may, without the institution of an action, apply to the Supreme Court for the opinion, advice or direction of the court on any question respecting the management or administration of the trust property or the assets of his ward or his testator or intestate.

(2) The trustee, guardian or personal representative acting upon the opinion, advice or direction given shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, guardian or personal representative, in the subject matter of the application, unless he has been guilty of some fraud, wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R.S.O. 1950, c. 400, s. 59.

#### ALLOWANCE TO TRUSTEES AND PERSONAL REPRESENTATIVES

**61.**—(1) A trustee, guardian or personal representative is entitled to such fair and reasonable allowance for his care,

pains and trouble, and his time expended in and about the estate, as may be allowed by a judge of the Supreme Court or by any master or referee to whom the matter may be referred.

Though  
estate not  
before the  
court

(2) The amount of such compensation may be settled although the estate is not before the court in an action.

Allowance to  
personal  
representa-  
tive for  
services

(3) The judge of a surrogate court, in passing the accounts of a trustee or of a personal representative or guardian, may from time to time allow to him a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the estate.

Allowance to  
barrister or  
solicitor  
trustee for  
professional  
services

(4) Where a barrister or solicitor is a trustee, guardian or personal representative, and has rendered necessary professional services to the estate, regard may be had in making the allowance to such circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of such services.

Where  
allowance  
fixed by the  
instrument

(5) Nothing in this section applies where the allowance is fixed by the instrument creating the trust. R.S.O. 1950, c. 400, s. 60.

#### MISCELLANEOUS

Trustees  
buying or  
selling

R.S.O. 1960,  
c. 414

**62.** A trustee who is either a vendor or a purchaser may sell or buy without excluding the application of section 1 of *The Vendors and Purchasers Act*. R.S.O. 1950, c. 400, s. 61.

Indemnity

**63.** This Act or an order purporting to be made under it is a complete indemnity to all persons for any acts done under the Act or order, as the case may be. R.S.O. 1950, c. 400, s. 62, *redrafted*.

Costs may be  
ordered to be  
paid out of  
estate

**64.** The Supreme Court may order the costs of and incidental to any application, order, direction, conveyance, assignment or transfer under this Act, or any part thereof, to be paid or raised out of the property in respect of which the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as the court may deem proper. R.S.O. 1950, c. 400, s. 63.

Application  
of Act

**65.** Subject to section 66, unless otherwise expressed therein, this Act applies to all trusts whenever created and to all trustees whenever appointed. R.S.O. 1950, c. 400, s. 64.

Additional  
powers

**66.** The powers, rights and immunities conferred by this Act are in addition to those conferred by the instrument

creating the trust, and have effect subject to the terms thereof.  
R.S.O. 1950, c. 400, s. 65.

**67.** Nothing in this Act authorizes a trustee to do any-Express  
thing that he is in express terms forbidden to do, or to omit terms of  
to do anything that he is in express terms directed to do by the trust  
instrument to prevail  
instrument creating the trust. R.S.O. 1950, c. 400, s. 66.

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## CHAPTER 409

## The Unclaimed Articles Act

**1.** This Act applies in the case of,Application  
of Act

## (a) any article of clothing or household goods,

- (i) that is deposited with a person for cleaning, pressing, dyeing, glazing, washing or repairing, and
- (ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than six months,

in respect of which the agreed or reasonable charges for the services mentioned in subclause i are unpaid;

## (b) any article of clothing or household goods,

- (i) that is deposited with a person for storage, whether or not it is also deposited for cleaning, pressing, dyeing, glazing, washing or repairing, and
- (ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than two years,

in respect of which the agreed or reasonable charges for storage are unpaid for any period of not less than twelve months; and

## (c) any article,

- (i) that is deposited with a jeweller or watchmaker for repair or other treatment, and
- (ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than one year,

in respect of which the agreed or reasonable charges for the services rendered are unpaid. R.S.O. 1950, c. 401, s. 1; 1951, c. 89, s. 1; 1957, c. 125, s. 1.

**2.—(1)** Upon the expiration of the period mentioned in subclause ii of clause *a* or subclause ii of clause *b* or subclause ii of clause *c* of section 1, as the case may be, the person with whom an article is deposited may cause a notice

Notice of  
intended  
disposal

to be served by registered mail upon the owner of the article or the person who deposited the article addressed to him at his last known address stating,

- (a) the amount of the agreed or reasonable charges in respect of the article; and
- (b) that, if such charges are not paid within thirty days of the date of the service of the notice, the article will be disposed of. 1957, c. 125, s. 2.

Notice may  
cover more  
than one  
article

(2) Any notice under this section may be in respect of more than one article belonging to or deposited by the same person. R.S.O. 1950, c. 401, s. 2 (2).

Where  
notice  
cannot be  
given

**3.** Where the whereabouts of the owner of and the person depositing an article cannot be ascertained and after all reasonable inquiries it is found that section 2 cannot be complied with, the person with whom an article is deposited may, without effecting service of notice as required by section 2, dispose thereof in the manner prescribed by section 4. R.S.O. 1950, c. 401, s. 3.

Disposal of  
articles

**4.—(1)** Upon the expiration of the thirty-day period mentioned in subsection 1 of section 2, the person with whom the article is deposited may dispose of it,

- (a) by giving it to a charitable organization or by giving it to any organization in order that it may be used for charitable purposes; or
- (b) in the case of an article,
  - (i) that has been declared by the owner or person depositing it to have a value of not more than \$100, or
  - (ii) in the absence of such a declaration, having a reasonable market value of not more than \$100,

by selling it.

Record of  
articles  
disposed of

(2) Every person who disposes of articles under this section shall maintain a record of the articles disposed of and the persons or organizations to whom they are disposed. R.S.O. 1950, c. 401, s. 4.

Application  
of proceeds

(3) Where an article is sold under subsection 1, the person selling it shall apply the proceeds of the sale in payment of his charges and shall upon application pay over the surplus to the person entitled thereto. 1957, c. 125, s. 3.

5. Where an article has been disposed of under this Act, <sup>Proof of facts</sup> *prima facie* evidence of compliance with this Act or of the existence of any fact or the doing of any act may be given in any court by the affidavit of a person having actual knowledge thereof. R.S.O. 1950, c. 401, s. 5.

6. Where an article has been disposed of under this Act, <sup>Relinquish claims for charges</sup> the person who disposed of it shall thereby relinquish all claims against the owner or person depositing it for unpaid charges for services upon or storage of the article. R.S.O. 1950, c. 401, s. 6.

7. This Act does not affect the right of any person to <sup>Exceptions</sup> proceed in the manner prescribed by *The Warehousemen's Lien Act* or by *The Mechanics' Lien Act*. R.S.O. 1950, c. 401, <sup>R.S.O. 1960, cc. 423, 233</sup> s. 7.

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## CHAPTER 410

## The Unconscionable Transactions Relief Act

## 1. In this Act,

Interpre-  
tation

- (a) "cost of the loan" means the whole cost to the debtor of money lent and includes interest, discount, subscription, premium, dues, bonus, commission, brokerage fees and charges, but not actual lawful and necessary disbursements made to a registrar of deeds, a master or local master of titles, a clerk of a county or district court, a sheriff or a treasurer of a municipality;
- (b) "court" means a court having jurisdiction in an action for the recovery of a debt or money demand to the amount claimed by a creditor in respect of money lent;
- (c) "creditor" includes the person advancing money lent and the assignee of any claim arising or security given in respect of money lent;
- (d) "debtor" means a person to whom or on whose account money lent is advanced and includes every surety and endorser or other person liable for the repayment of money lent or upon any agreement or collateral or other security given in respect thereof;
- (e) "money lent" includes money advanced on account of any person in any transaction that, whatever its form may be, is substantially one of money-lending or securing the repayment of money so advanced and includes and has always included a mortgage within the meaning of *The Mortgages Act*. R.S.O. 1950, c. 402, s. 1; 1960, c. 127, s. 1. R.S.O. 1960,  
c. 245

2. Where, in respect of money lent, the court finds that, <sup>The court may,</sup> having regard to the risk and to all the circumstances, the cost of the loan is excessive and that the transaction is harsh and unconscionable, the court may,

- (a) re-open the transaction and take an account between the creditor and the debtor; re-open  
transaction  
and take  
account
- (b) notwithstanding any statement or settlement of account or any agreement purporting to close <sup>re-open  
former settle-  
ments</sup>

previous dealings and create a new obligation, re-open any account already taken and relieve the debtor from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan;

order re-  
payment of  
excess

- (c) order the creditor to repay any such excess if the same has been paid or allowed on account by the debtor;

set aside or  
revise  
contract

- (d) set aside either wholly or in part or revise or alter any security given or agreement made in respect of the money lent, and, if the creditor has parted with the security, order him to indemnify the debtor. R.S.O. 1950, c. 402, s. 2.

Exercise of  
powers of  
court,

**3.** The powers conferred by section 2 may be exercised,

in action by  
creditor

- (a) in an action or proceeding by a creditor for the recovery of money lent;

in action by  
debtor

- (b) in an action or proceeding by the debtor notwithstanding any provision or agreement to the contrary, and notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived;

in other pro-  
ceedings

- (c) in an action or proceeding in which the amount due or to become due in respect of money lent is in question. R.S.O. 1950, c. 402, s. 3; 1960, c. 127, s. 2.

Relief by  
way of  
originating  
notice in  
county court

**4.—(1)** In addition to any right that a debtor may have under this or any other Act or otherwise in respect of money lent, he may apply for relief under this Act to a judge of the county or district court of the county or district in which he resides, and the judge on the application may exercise any of the powers of the court under section 2.

Removal of  
proceedings  
into  
Supreme  
Court

(2) Where an application is made under subsection 1, the judge may, if he sees fit, at any time before disposing of the application, by order remove the proceedings into the Supreme Court.

Idem

(3) When an order is made under subsection 2, the clerk of the county or district court shall forthwith transmit the papers in the case to the proper office of the Supreme Court in the county or district in which the application was made.

Idem

(4) When the papers have been received in the proper office of the Supreme Court, the application is *ipso facto* removed into the Supreme Court and shall be heard and determined by a judge of the Supreme Court in chambers, and

the judge on the application may exercise any of the powers of the court under section 2 or he may direct an issue.

(5) An appeal lies to the Court of Appeal from any order <sup>Appeal</sup> made under subsection 1 or 4. 1960, c. 127, s. 3.

**5.** Nothing in this Act affects the rights of a *bona fide* <sup>Saving</sup> assignee or holder for value without notice, or derogates from <sup>*bona fide*</sup> holder for value, and the existing powers or jurisdiction of any court. R.S.O. 1950, <sup>existing</sup> c. 402, s. 4. <sup>jurisdiction</sup>

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## CHAPTER 411

**The Vacant Land Cultivation Act**

1. The councils of local municipalities may pass by-laws, <sup>By-laws re</sup>
  - (a) for granting permits to any person to enter upon, <sup>permits to cultivate vacant land</sup> hold and use any vacant land in the municipality for the purpose only of cultivating it and raising thereon such crops as may be prescribed by the by-law or permit during such period not extending beyond the current year and on such terms and conditions as may be thought proper, and for regulating and controlling the use of such land by the holder of a permit;
  - (b) for revoking any permit for failure to comply with <sup>revoking permit</sup> the terms and conditions of the by-law or of the permit or whenever the council determines that the land is immediately required by the owner for building or manufacturing or other revenue-producing purposes. R.S.O. 1950, c. 405, s. 1.
2. The fee for the permit shall not exceed \$1. R.S.O. <sup>Fee</sup> 1950, c. 405, s. 2.
3. Before issuing a permit with respect to any parcel of <sup>Hearing objections</sup> land, notice of the intention of the council to issue permits with respect to it and fixing a day for hearing any objections that he may desire to make shall be left with the owner or transmitted to him by mail to the address of his residence or place of business in the municipality, if he resides or has a place of business there, and, if he is not resident in the municipality, then by mail to him at his last known place of residence. R.S.O. 1950, c. 405, s. 3.
4. The council shall not issue a permit with respect to any <sup>When permit not to issue</sup> parcel of land if the owner of it shows to the satisfaction of the council that it will be required by him during the current year for building or manufacturing or other revenue-producing purposes. R.S.O. 1950, c. 405, s. 4.
5. No compensation shall be paid to any owner or other <sup>No compensation to owner</sup> person interested in such land for or on account of the exercise of the powers conferred by this Act. R.S.O. 1950, c. 405, s. 5.

Compensation to holder if permit revoked

**6.** If the council revokes a permit because it has determined that the land is immediately required by the owner for building or manufacturing or other revenue-producing purposes, it shall pay to the holder of the permit for the loss occasioned by such revocation such compensation, not exceeding \$50 in the case of any one permit, as may be agreed upon, and in case of failure to agree, as may be determined by the magistrate, or if there is no magistrate by a justice of the peace having jurisdiction in the municipality on the application of the council or of the holder of the permit, and the fee of the magistrate or justice of the peace for determining the compensation shall be not more than \$2, of which half shall be paid by the holder and half by the corporation. R.S.O. 1950, c. 405, s. 6.

Powers of Director of General Welfare Assistance

**7.** The person designated by the Lieutenant Governor in Council as Director of General Welfare Assistance may exercise in any part of Ontario any of the powers conferred by this Act on the council of a local municipality and the provisions of this Act, except section 6, applicable to a council of a local municipality apply *mutatis mutandis* to the Director of General Welfare Assistance. R.S.O. 1950, c. 405, s. 7.

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## CHAPTER 412

## The Vaccination Act

1. The trustees, governors, directors or other officers or persons having at any time the control and management of any hospital or dispensary receiving aid from the public funds of Ontario shall keep at all times in such hospital or dispensary an adequate supply of vaccine matter,

Duty of trustees, etc., of hospitals, etc., to keep vaccine matter

- (a) for the vaccination, by a legally qualified medical practitioner attached to such hospital or dispensary, at the expense of the same, of all poor persons and, at their own expense, of all other persons, who attend at such hospital or dispensary for that purpose, during one day in every week, the fee to be charged for the vaccination not in any case to exceed 50 cents, and to be used and applied for the benefit of the hospital or dispensary;
- (b) for furnishing, on application, to every legally qualified medical practitioner, such reasonable quantities of vaccine matter as he from time to time requires;
- (c) for furnishing, on application, to a superintendent within the meaning of the *Indian Act* (Canada) such reasonable quantities of vaccine matter as he may from time to time require for the use and benefit of any settlement of Indians. R.S.O. 1950, c. 406, s. 1, *amended*.

for vaccination at hospital

for furnishing practitioners

for use of Indians R.S.C. 1952, c. 149

2. No warrant shall issue for the payment of any money granted by the Legislature to any hospital or dispensary unless a certificate has been filed in the office of the Clerk of the Executive Council, signed by a medical officer of such hospital or dispensary, to the effect that there is actually on hand therein a supply of vaccine matter that is believed to be sufficient for the purposes mentioned in section 1 from the date of the certificate, or setting forth reasons in explanation of any deficiency in the supply to the satisfaction of the Lieutenant Governor in Council, or unless a certificate so signed has been filed to the effect that at no time since the date of the then last certificate has the demand upon such hospital or dispensary for vaccine matter for such purposes exceeded the supply in hand in such hospital or dispensary, or setting forth reasons in explanation of any deficiency in

Non-payment of grant where non-compliance

the supply, to the satisfaction of the Lieutenant Governor in Council. R.S.O. 1950, c. 406, s. 2.

Annual  
statement  
respecting  
vaccination  
to be laid  
before  
Assembly

**3.** The trustees, governors, directors or other officers or persons having for the time being the control and management of any hospital or dispensary to which aid has been granted during any session of the Legislature shall cause to be transmitted to the Provincial Secretary, in time for copies thereof to be laid before the Assembly during the first fifteen days of the then next session, a statement certified by the proper officers of such hospital or dispensary showing the number of persons who have applied for and received free vaccination, the number of persons who have applied for and received vaccination at their own expense, and the number, amount and application of fees charged and received for vaccination. R.S.O. 1950, c. 406, s. 3.

Employ-  
ment by  
municipalities of  
medical  
practitioners  
to vaccinate  
residents

**4.**—(1) The corporation of every city, town, township and village shall contract with one or more legally qualified medical practitioners, for the period of one year, and so from year to year as such contract expires, for the vaccination, at the expense of the corporation, of all poor persons and, at their own expense, of all other persons resident in such municipality who come to such medical practitioners for that purpose.

Remunera-  
tion to  
depend on  
success

(2) It shall be a condition of every such contract that the amount of the remuneration to be received under the contract will depend on the number of persons who, not having been previously successfully vaccinated, are successfully vaccinated by such medical practitioners. R.S.O. 1950, c. 406, s. 4.

Powers of  
local board  
of health in  
default of  
municipality

**5.**—(1) If the corporation neglects to make such contract and such neglect continues for one month after the attention of the council has been called in writing by the local board of health to such neglect, and to the powers which, in case of such neglect, it may exercise under the authority of this Act, the local board may contract with the medical officer of health of the municipality, or other legally qualified medical practitioner, to perform all the duties that may be performed by or are incumbent upon a medical practitioner under this Act if appointed or contracted with by the corporation under section 4, and the corporation is liable to the medical practitioner for the fees for vaccination or for duties performed to the extent provided for by this Act as if the contract had been made by or with the corporation.

Local board  
to appoint  
place and  
give notice

(2) The local board of health may, unless the council has already done so, appoint the places and give the notice where



and when such vaccination will be performed, as is required by section 6 to be done by the council. R.S.O. 1950, c. 406, s. 5.

6. The council of every city and town shall appoint a convenient place in each ward, and the council of every township and village shall appoint a convenient place therein, for the performance, at least once in each month, of such vaccination, and shall take effectual means for giving, from time to time, to all persons resident within each ward or within the township or village due notice of the days, hours and place at which the medical practitioner or one of the medical practitioners contracted with for such purpose will attend to vaccinate all persons not successfully vaccinated who may then appear there, and also of the days, hours and place at which such medical practitioner will attend to inspect the progress of such vaccination in the persons so vaccinated. R.S.O. 1950, c. 406, s. 6.

Municipalities to appoint convenient places for performance of vaccination

7.—(1) The father and mother of every child born in such city, town, township or village shall, at some appointed time within three months after the birth of the child, or, in the event of the death, illness, absence or inability of the father and mother, then the person who has the care, nurture or custody of the child, shall, at some appointed time within four months after the birth of the child, take or cause to be taken the child to the medical practitioner in attendance at the appointed place, according to the provisions of the preceding sections, for the purpose of being vaccinated, unless the child has been previously vaccinated by a legally qualified medical practitioner and the vaccination has been duly certified, and the medical practitioner so appointed shall thereupon, or as soon after as it can conveniently and properly be done, vaccinate the child.

Parents, etc., bound to take children to be vaccinated

(2) On the eighth day following the day on which any child has been so vaccinated, the father or mother, or other person having the care, nurture or custody of the child, shall again take or cause to be taken the child to the medical practitioner by whom the operation was performed, or the other medical practitioner in attendance, in order that he may ascertain by inspection the result of the operation.

To exhibit them to the medical practitioner on eighth day

(3) Immediately after the successful vaccination of a child born in any city, town, township or village, the medical practitioner who performed the operation shall deliver to the father or mother, or other person having the care, nurture or custody of the child, a certificate under his hand (Form 1) that the child has been successfully vaccinated, and shall transmit a duplicate of the certificate to the clerk of the municipality in which the operation was performed.

Certificate of successful vaccination to be given

What to be  
evidence

(4) Such certificate shall, without further proof, be admissible as evidence of the successful vaccination of the child in any information or complaint brought against the father or mother, or the person who had the care, nurture or custody of the child, for non-compliance with the provisions of this Act.

Certificate  
where child  
found unfit  
for vacci-  
nation

(5) If the medical practitioner is of opinion that a child brought to him is not in a fit and proper state to be successfully vaccinated, he shall deliver to the father or mother of the child, or the person having the care, nurture or custody of the child, on demand and without fee, a certificate under his hand (Form 2) that the child is in an unfit state for successful vaccination.

How long to  
be in force

(6) Such certificate or a similar certificate of a legally qualified medical practitioner shall remain in force for two months from its delivery, and the father or mother, or the person having the care, nurture or custody of the child, unless within each succeeding period of two months a renewal of such certificate has been obtained from a legally qualified medical practitioner, shall, within two months after the delivery of the certificate, and, if the child is not vaccinated by the termination of such period, then during each succeeding period of two months until the child has been successfully vaccinated, take or cause to be taken to the medical practitioner so appointed the child to be vaccinated by him.

Vaccination  
and  
certificate  
thereof

(7) If the medical practitioner deems the child to be then in a fit and proper state for successful vaccination, he shall forthwith vaccinate the child and shall immediately after the successful vaccination of the child deliver to the father or mother, or the person having the care, nurture or custody of the child, a certificate under his hand (Form 1) that the child has been successfully vaccinated.

Certificate  
of unfitness  
for vaccina-  
tion on  
re-examina-  
tion

(8) If the medical practitioner is of opinion that the child is still in an unfit state for successful vaccination, he shall again deliver to the father or mother, or to the person having the care, nurture or custody of the child, a certificate under his hand (Form 2) that the child is still in an unfit state for successful vaccination, and the medical practitioner, so long as the child remains in an unfit state for vaccination and unvaccinated, shall, at the expiration of every succeeding period of two months, deliver, if required, to the father or mother, or to the person having the care, nurture or custody of the child, a fresh certificate under his hand (Form 2).

Effect of  
certificate

(9) The production of such certificate or a similar certificate from a legally qualified medical practitioner is a sufficient defence against any complaint brought against the father or

mother, or person having the care, nurture or custody of such child, for non-compliance with the provisions of this Act.

(10) If a medical practitioner employed under this Act, or any other duly qualified medical practitioner, is of opinion that any child vaccinated by him is insusceptible of the vaccine disease, he shall deliver to the father or mother, or to the person having the care, nurture or custody of the child, a certificate under his hand (Form 3) and the production of the certificate is a sufficient defence against any complaint that may be brought against the father or mother, or person having the care, nurture or custody of the child, for non-compliance with the provisions of this Act.

(11) This section also applies to all children over the age of three months who become resident in a municipality, and such children shall, for the purposes of this section, be considered as children born in the municipality at the date on which they became resident within it. R.S.O. 1950, c. 406, s. 7.

8. In all contracts made under this Act, the sums contracted to be paid shall not be more than 25 cents for each person successfully vaccinated, including all or any of the certificates required by this Act. R.S.O. 1950, c. 406, s. 8.

9. Every father or mother or person having the care, nurture or custody of a child who does not cause the child to be vaccinated within the periods prescribed by this Act or who does not, on the eighth day after the vaccination has been performed, take or cause to be taken the child for inspection according to this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$5. R.S.O. 1950, c. 406, s. 9.

10.—(1) After the expiration of two months from the conviction of any person for an offence against this Act in respect of any child, no plea of such conviction is a sufficient defence against any complaint that may then be brought against the same or any other person for non-compliance with the provisions of this Act in respect of the same child.

(2) The production of a certificate (Form 1 or 3) under the hand of a legally qualified medical practitioner is a sufficient defence against such complaint, but the production of a certificate (Form 2) is not a sufficient defence unless the vaccination is thereby postponed to a day subsequent to that on which the complaint is brought. R.S.O. 1950, c. 406, s. 10.

11.—(1) In every municipality where smallpox exists or in which the Department of Health or local board of health

has notified the council that in its opinion there is danger of its breaking out owing to the facility of communication with infected localities, the council of the municipality shall order the vaccination or re-vaccination of all persons resident in the municipality who have not been vaccinated within seven years, and that such vaccination or re-vaccination shall be carried out in so far as the same may be applicable in the same manner as the vaccination of children, except that a person of fourteen years of age or over, but under the age of twenty-one years, who is not in the custody or under the control of his father or mother or of any other person, and every person of twenty-one years or over, shall present himself for vaccination by the medical practitioner, or by some other legally qualified medical practitioner, and the medical practitioner shall adopt the same measures to secure the vaccination or re-vaccination of every such person as he is required to take with regard to children.

Proclamation by head of municipality

(2) A proclamation issued by the head of the municipality, and published in posters and in at least one newspaper published within the municipality or, if there is no such newspaper, in at least one newspaper published in the county or district in which such municipality is situate, warning the public that this section is in force, is sufficient evidence to justify the conviction of any person who has failed to comply with the law within a period of seven days from the publication of the proclamation.

Offence for neglect by member of municipality

(3) Every member of a municipal council that neglects or refuses to make the order required by subsection 1 or to make proper provision for carrying the order into effect is guilty of an offence and on summary conviction is liable to a fine of not more than \$25, unless he proves that he did everything in his power to secure the making of the order or the making of proper provision for carrying any such order into effect and causes his protest against such refusal or neglect to be recorded in the proceedings of the council.

By head of municipality

(4) If the head of a municipality neglects or refuses to issue and publish the proclamation required by subsection 2, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$25.

Offence for neglect to obey order of council

(5) Every person who wilfully neglects or refuses to obey the order of the council is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1950, c. 406, s. 11.

Vaccination of pupils and students

**12.—(1)** Where it is deemed necessary by the medical officer of health of any municipality, owing to the presence or threatened presence of smallpox, he may, with the approval

of the local board of health, require certificates of successful vaccination or of insusceptibility on re-vaccination within seven years of all pupils or students of a public, separate, continuation or high school or collegiate institute, and of a college or university, or of any other public or private institution of learning, within the municipality, to be presented to the proper authorities of the institution, and no pupil or student refusing to produce such certificate on demand shall be admitted to further attendance in the institution until the certificate is furnished.

(2) Every principal, teacher, superintendent or officer of any such institution who commits or is party or privy to any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1950, c. 406, s. 12.

**13.** Every person who by inoculation with or by wilful exposure to variolous matter or by any matter, article or thing impregnated with variolous matter, or wilfully by any other means produces or attempts to produce the disease of smallpox in any person, is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than one year. R.S.O. 1950, c. 406, s. 13.

**14.** If a legally qualified medical practitioner is convicted of an offence against section 13, his name shall be erased from the register of the College of Physicians and Surgeons of Ontario, but the medical council at any time after the expiration of the term of imprisonment of any such person may restore his name to the register. R.S.O. 1950, c. 406, s. 14.

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FORM 1

(Sections 7 and 10)

CERTIFICATE OF VACCINATION

I, the undersigned, a legally qualified medical practitioner, hereby certify that....., the child of....., aged....., of.....Ward, in the City of.....(or as the case may be), has been successfully vaccinated by me.

Dated this.....day of....., 19.....

## FORM 2

*(Sections 7 and 10)*

## CERTIFICATE OF UNFITNESS FOR VACCINATION

I, the undersigned, a legally qualified medical practitioner, hereby certify that I am of opinion that....., the child of....., of.....Ward, in the City of.....(*or as the case may be*), aged....., is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the vaccination until the.....day of....., 19.....

Dated this.....day of....., 19.....

R.S.O. 1950, c. 406, Form 2.

## FORM 3

*(Sections 7 and 10)*

## CERTIFICATE OF INSUSCEPTIBILITY TO VACCINE DISEASE

I, the undersigned, a legally qualified medical practitioner, hereby certify that I am of opinion that....., the child of....., of.....Ward, in the City of.....(*or as the case may be*), is insusceptible of the vaccine disease.

Dated this.....day of....., 19.....

R.S.O. 1950, c. 406, Form 3.

## CHAPTER 413

**The Variation of Trusts Act**

**1.—**(1) Where property, real or personal, is held on trusts heretofore or hereafter arising under any will, settlement or other disposition, the Supreme Court may, if it thinks fit, by order approve on behalf of, Jurisdiction of courts to vary trusts

- (a) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting; or
- (b) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons; or
- (c) any person unborn; or
- (d) any person in respect of any interest of his that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined,

any arrangement, by whomsoever proposed and whether or not there is any other person beneficially interested who is capable of assenting thereto, varying or revoking all or any of the trusts or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts.

(2) The court shall not approve an arrangement on behalf of any person coming within clause *a*, *b* or *c* of subsection 1 unless the carrying out thereof appears to be for the benefit of that person. 1959, c. 104, s. 1. Benefit

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## CHAPTER 414

## The Vendors and Purchasers Act

1. In the completion of a contract of sale of land the rights and obligations of the vendor and the purchaser shall, subject to any stipulation to the contrary in the contract, be regulated by the following rules:

Rights of vendors and purchasers in contracts of sale of lands

1. Recitals, statements and descriptions of facts, matters and parties contained in statutes, deeds, instruments or statutory declarations twenty years old at the date of the contract, unless and except in so far as they are proved to be inaccurate, are sufficient evidence of the truth of such facts, matters and descriptions.
2. A registered memorial of a discharged mortgage is sufficient evidence of the mortgage without the production of the mortgage, unless and except in so far as the memorial is proved to be inaccurate, and the vendor is not bound to produce the mortgage unless it is in his possession or power.
3. A registered memorial twenty years old of any other instrument, if the memorial purports to be executed by the grantor, or in other cases if possession has been consistent with the registered title, is sufficient evidence without the production of the instrument to which the memorial relates, unless and except in so far as the memorial is proved to be inaccurate, and the vendor is not bound to produce the original instrument unless it is in his possession or power, and the memorial shall be presumed to contain all the material contents of the instrument to which it relates.
4. The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, is not an objection to the title if the purchaser will, on the completion of the contract, have an equitable right to the production of such documents.

Recitals, etc., 20 years old, of facts, etc., *prima facie* evidence

Memorials of discharged mortgages

Memorials 20 years old, when, and of what, evidence

Inability to furnish covenant to produce and furnish documents of title

2. In an action it is not necessary to produce any evidence that by section 1 is dispensed with as between vendor and

Evidence in actions

purchaser, and the evidence therein declared to be sufficient as between vendor and purchaser is *prima facie* sufficient for the purposes of the action. R.S.O. 1950, c. 407, s. 2.

Applications to court as to requisitions, objections, compensation, etc.

**3.—(1)** A vendor or purchaser of real or leasehold estate or his representative may at any time and from time to time apply in a summary way to the Supreme Court or a judge thereof or to the county or district court of the county or district in which the land or any part thereof is situate in respect of any requisition or objection or any claim for compensation or any other question arising out of or connected with the contract, except a question affecting the existence or validity of the contract, and the court or the judge may make such order upon the application as may be deemed just.

Removal of proceedings into Supreme Court

(2) Where an application under subsection 1 is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission of proceedings

(3) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of proceedings

(4) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court.

Reference to master

(5) Where an application under subsection 1 is made to or is removed into the Supreme Court, the court or judge may refer any question to a master or other officer for inquiry and report.

Appeal

(6) An appeal lies to the Court of Appeal from any order made under this section. 1952, c. 110, s. 1.

Terms of agreement of sale and purchase

**4.** Every contract for the sale and purchase of land shall, unless otherwise stipulated, be deemed to provide that,

- (a) the vendor is not bound to produce any abstract of title, deed, copies of deeds or other evidence of title except such as are in his possession or control;
- (b) the purchaser shall search the title at his own expense and shall make his objections thereto in writing within thirty days from the making of the contract;

- (c) the vendor has thirty days in which to remove any objection made to the title, but if he is unable or unwilling to remove any objection that the purchaser is not willing to waive, he may cancel the contract and return any deposit made but is not otherwise liable to the purchaser;
  - (d) taxes, local improvement rates, insurance premiums, rents and interest, shall be adjusted as at the date of closing;
  - (e) the conveyance shall be prepared by the vendor and the mortgage, if any, by the purchaser and the purchaser shall bear the expense of registration of the deed and the vendor shall bear the expense of the registration of the mortgage if any;
  - (f) the purchaser is entitled to possession or the receipt of rents and profits upon the closing of the transaction. R.S.O. 1950, c. 407, s. 4.
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## CHAPTER 415

**The Venereal Diseases Prevention Act****1. In this Act,**Interpre-  
tation

- (a) "medical officer of health" means a medical officer of health appointed under *The Public Health Act*; R.S.O. 1960, c. 321
- (b) "Minister" means the Minister of Health;
- (c) "place of detention" means a hospital, sanatorium, jail, lock-up, reformatory, Ontario training school, industrial farm, industrial refuge or any place designated as a place of detention by the Lieutenant Governor in Council but does not include an isolation hospital for the care of communicable diseases, other than venereal disease, as defined by *The Public Health Act*;
- (d) "physician" means a legally qualified medical practitioner;
- (e) "prescribed" means prescribed by the regulations;
- (f) "regulations" means the regulations made under this Act or *The Public Health Act*;
- (g) "venereal disease" means syphilis, gonorrhoea or chancroid. R.S.O. 1950, c. 408, s. 1.

**2.—**(1) Every person infected with venereal disease upon becoming aware or suspecting that he is so infected shall place himself forthwith under the care and treatment of a physician, and if unable to obtain such care or treatment he shall apply to the medical officer of health for the place in which he is ordinarily or temporarily resident.

Infected  
person to  
submit to  
treatment

(2) Every such person shall conduct himself in such a manner as not to expose other persons to the danger of infection, and shall take and continue treatment in a manner and to an extent considered to be adequate by the attending physician and the Minister. R.S.O. 1950, c. 408, s. 2.

Idem

**3.—**(1) It is the duty of,Duty to  
report

- (a) every physician;

- (b) every superintendent or head of a hospital, sanatorium or laboratory; and
- (c) every person in medical charge of any jail, lock-up, reformatory, industrial farm, training school, school or college, industrial, female or other refuge, or other similar institution,

to report to the Minister every case of venereal disease coming under his diagnosis, treatment, care or charge for the first time.

within  
24 hours

(2) The report in the prescribed form shall be completed and forwarded to the Minister within twenty-four hours after the first diagnosis, treatment or knowledge by or of such physician, head or other person. R.S.O. 1950, c. 408, s. 3.

Action of  
m.o.h. on  
reasonable  
belief

4.—(1) Where a medical officer of health has reasonable grounds for believing that a person within the municipality is or may be infected with venereal disease or has been exposed to infection, the medical officer of health may give notice in writing in the prescribed form to such person directing him to submit to an examination by a physician designated by or satisfactory to the medical officer of health, and to procure and produce to the medical officer of health within the time specified in the notice, a report or certificate of the physician that such person is or is not infected with venereal disease.

Offence

(2) Every person who without reasonable excuse, the proof of which is upon him, fails to comply with a direction made under subsection 1 is guilty of an offence and liable to imprisonment for a term of not less than seven days and not more than twelve months.

Powers of  
m.o.h. on  
report

(3) If by the report or certificate mentioned in subsection 1 it appears that the person so notified is infected with venereal disease, the medical officer of health may,

- (a) deliver to such person directions in the prescribed form as to the course of conduct to be pursued and may require such person to produce from time to time evidence satisfactory to the medical officer of health that he is undergoing adequate medical treatment and is in other respects carrying out such directions, and where such person fails to comply with the course of conduct prescribed for him or to produce the evidence required, the medical officer of health may exercise all the powers vested in him by clause b or may proceed under section 6; or
- (b) with the approval of the Minister, order in writing that such person be removed and detained in a place

of detention for the prescribed treatment until such time as the medical officer of health is satisfied that an adequate degree of treatment has been attained.

(4) Where a medical officer of health makes an order under clause *b* of subsection 3, he shall deliver the order to a peace officer who shall thereupon take the person named in the order into his custody and remove him to the place of detention named in the order, and the person for the time being in charge of the place of detention, upon receiving the order, shall receive such person and shall detain him until he is authorized by the medical officer of health to release him.

Duties of  
peace officer  
on order  
of m.o.h.

(5) A medical officer of health may adopt the procedure or do any of the acts referred to in subsection 3 with regard to any person who has been examined by a physician at any time within one year previously and has been certified by such physician to be infected with syphilis.

Where  
person  
certified  
within  
one year

(6) A medical officer of health may require a person whom he believes may be infected with venereal disease to undergo more than one examination in order to determine the presence or absence of such infection. R.S.O. 1950, c. 408, s. 4.

More than  
one exami-  
nation may  
be required

**5.—(1) Where,**

- (a) any person has been named under oath as a source or contact of gonorrhoea infection or is believed by the medical officer of health to be a source or contact of such infection; and
- (b) in the opinion of the medical officer of health the clinical findings and history of such person indicate that such person is or may be infected with gonorrhoea,

Authority  
of medical  
officer of  
health

the medical officer of health may, whether or not laboratory findings indicate the presence of gonorrhoea infection, proceed in the manner prescribed in clauses *a* and *b* of subsection 3 of section 4.

(2) For the purposes of subsection 1, a medical officer of health may administer an oath and take a statement under oath. R.S.O. 1950, c. 408, s. 5.

Medical  
officer of  
health may  
take state-  
ment under  
oath

**6.—(1)** Any medical officer of health may make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clause *a* or *b* of subsection 5 exist with regard to any person named in such complaint or information.

Information  
or complaint

(2) Upon receiving any such complaint or information, the justice of the peace shall hear and consider the allegations of

Issue of  
summons

the complainant, and if he considers it desirable or necessary the evidence of any witness or witnesses, and if he is of the opinion that a case for so doing is made out he shall issue a summons directed to the person complained of requiring him to appear before a magistrate at a time and place named therein.

Issue of  
warrant

(3) Where a person to whom a summons is directed does not appear at the time and place named therein or where it appears that a summons cannot be served, a magistrate may issue a warrant directing that the person named in the summons be brought before him.

Magistrate's  
inquiry

(4) Where a person appears or is brought before a magistrate under this section, the magistrate shall inquire into the truth of the matters charged in the complaint or information and for such purpose shall proceed in the manner prescribed by *The Summary Convictions Act* and has the powers of a magistrate holding a hearing under that Act.

R.S.O. 1960,  
c. 387

Order for  
detention

(5) Where a magistrate finds that any person,

(a) is infected with a venereal disease and is unwilling or unable to conduct himself in such a manner as not to expose other persons to the danger of infection; or

(b) is infected with a venereal disease and refuses or neglects to take or continue treatment as required by this Act and the regulations,

he shall order that such person be admitted to and detained in a place of detention for such period not exceeding one year as the magistrate may deem necessary.

Laboratory  
certificate  
*prima facie*  
evidence

(6) In any inquiry under this section, a certificate as to the result of any test made, signed or purporting to be signed by the director of a laboratory approved by the Minister is *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature.

Extension  
of detention

(7) Any person detained under this section may, with the approval in writing of the Minister, be brought before a magistrate at any time during the last thirty days of the period for which he is so detained, and if the magistrate finds that he is still infected with venereal disease and in need of further treatment, he may order that such person be further detained for such period not exceeding one year as the magistrate may deem necessary.

Discharge by  
Minister

(8) Where the Minister is of the opinion that any person detained under this section is no longer infected with venereal



disease or has received an adequate degree of treatment, he may direct the discharge of such person. R.S.O. 1950, c. 408, s. 6.

7.—(1) Where any physician in medical charge of any jail, lock-up, reformatory, industrial farm, training school, or industrial, female or other refuge has reason to believe that any person under his charge may be infected with venereal disease or has been exposed to infection with venereal disease, he may, and if he is directed by the medical officer of health, he shall cause such person to undergo such examination as may be necessary to ascertain whether or not he is infected with venereal disease or to ascertain the extent of venereal disease infection and if the examination discloses that he is so infected the physician shall report the facts to the medical officer of health who may thereupon exercise the powers vested in him by section 9.

Examination  
by physician  
in charge  
of institu-  
tion

(2) Where an examination has not been made under this section, every physician in medical charge of any jail, lock-up, reformatory, industrial farm, training school, or industrial, female or other refuge shall report to the medical officer of health the name and place of confinement of any person under his charge whom he suspects or believes to be infected with venereal disease and the report shall be made within twenty-four hours after he suspects or believes such person to be so infected.

Duty of  
physician  
in charge of  
institution

(3) A copy or statement of every report made under this section shall be forwarded to the Minister and to the medical officer of health of the municipality in which such person resided before being admitted to such institution by the physician making the report. R.S.O. 1950, c. 408, s. 7.

Duplicate  
report

8. When a medical officer of health believes that any person under arrest or in custody, whether awaiting trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, has been or may be infected or has been exposed to infection with venereal disease, he may cause such person to undergo such examination as may be necessary in order to ascertain whether or not such person is infected with venereal disease or to ascertain the extent of infection with venereal disease, and may direct that such person shall remain in custody until the results of the examination are known. R.S.O. 1950, c. 408, s. 8.

Examination  
of person in  
custody or  
committed  
to prison

9. Where any person under arrest or in custody, whether awaiting trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, exist

Treatment  
where  
disease  
found to  
exist

by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, is found to be infected with venereal disease, the medical officer of health may by order in writing direct that such person undergo treatment therefor and that such action be taken as the medical officer of health or the Minister may deem advisable for his isolation and the prevention of infection by him, and that he be detained in custody until cured or until he has received a degree of treatment considered adequate by the attending physician and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section is sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. R.S.O. 1950, c. 408, s. 9.

Physician  
to report  
person  
refusing to  
continue  
treatment

**10.**—(1) Where a person who has been under treatment for venereal disease refuses or neglects to continue treatment in a manner and to a degree satisfactory to the attending physician and the Minister, the physician shall report to the Minister the name and address of such person together with such other information as may be required by the regulations.

Failure  
to attend  
within  
seven days

(2) A person who fails to attend upon his physician within seven days of an appointment for treatment shall be presumed to have neglected to continue treatment and the attending physician shall report such failure in writing to the Minister and the medical officer of health within fourteen days of the appointment.

Offence

(3) A physician who fails to report as required by this section is guilty of an offence and is liable to a fine of not less than \$25 and not more than \$100. R.S.O. 1950, c. 408, s. 10.

Supply of  
drugs, etc.,  
by unquali-  
fied persons  
prohibited

**11.**—(1) No person other than a physician shall attend upon or prescribe for or supply or offer to supply any drug, medicine, appliance or treatment to or for a person suffering from venereal disease for the purpose of the alleviation or cure of such disease.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and is liable to a fine of not less than \$100 and not more than \$500 and in default of immediate payment shall be imprisoned for a term of not more than twelve months.

Exception  
as to  
chemists

(3) Subsection 1 does not apply to a registered pharmaceutical chemist who dispenses to a patient of a physician upon a written prescription signed by such physician or who sells to any person any patent, proprietary or other medicine, drug or appliance approved by the regulations for the cure or alleviation of venereal disease provided that no prescription

shall be filled more than once except upon the written direction of the prescribing physician. R.S.O. 1950, c. 408, s. 11.

**12.—(1)** Every person who, Offences

- (a) wilfully neglects or disobeys any order or direction given by a medical officer of health or the Minister or Deputy Minister under this Act or the regulations;
- (b) hinders, delays or obstructs any medical officer of health, peace officer or other person acting in the performance of his duties under this Act;
- (c) publishes any proceedings taken under this Act or the regulations contrary to subsection 2;
- (d) wilfully represents himself as bearing some other name than his own or makes any false statements as to his ordinary place of residence during the course of his treatment for any venereal disease with the purpose of concealing his identity;
- (e) during the course of his treatment for any venereal disease changes his place of residence without giving due notice of such proposed change with his new address to the attending physician; or
- (f) fails to comply with any of the provisions of this Act or the regulations,

is guilty of an offence and, where no other penalty is prescribed, is liable to a fine of not less than \$25 and not more than \$100 and in default of immediate payment shall be imprisoned for a term of not more than three months.

(2) *The Summary Convictions Act* applies to prosecutions under this Act or the regulations but all proceedings for the recovery of penalties under this Act and proceedings authorized by section 6 shall be conducted *in camera* and no person shall publish or disclose any such proceedings except under the authority of this Act or the regulations. Prosecu-  
tions  
R.S.O. 1960,  
c. 387

(3) Notwithstanding the provisions of *The Summary Con-  
victions Act*, service of any summons issued for a contraven- Summons  
by personal  
service  
tion of this Act may be effected by personal service. R.S.O. 1950, c. 408, s. 12.

**13.—(1)** Every person who publicly or privately, verbally Statements  
as to  
existence  
of disease  
or in writing, directly or indirectly, states or intimates that any other person has been notified or examined or otherwise dealt with under this Act, whether such statement or intimation is or is not true, is guilty of an offence, and in addition to any other penalty or liability, is liable to a fine of \$200 and

in default of immediate payment shall be imprisoned for a term of not more than six months.

Exceptions

(2) Subsection 1 does not apply,

- (a) to a communication or disclosure made in good faith,
  - (i) to the Minister or Deputy Minister of Health,
  - (ii) to a medical officer of health for his information in carrying out the provisions of this Act,
  - (iii) to a physician,
  - (iv) in the course of consultation for treatment for venereal disease,
  - (v) to the superintendent or head of any place of detention;
- (b) to any evidence given in any judicial proceedings of facts relevant to the issue; or
- (c) to any communication authorized or required to be made by this Act or the regulations.

Information to family

(3) Notwithstanding subsection 1, a physician may give information concerning the patient to other members of the patient's family for the protection of health. R.S.O. 1950, c. 408, s. 13.

Obligation to observe secrecy

**14.** Every person engaged in the administration of this Act shall preserve secrecy with regard to all matters that may come to his knowledge in the course of such employment and shall not communicate any such matter to any other person except in the performance of his duties under this Act or when instructed to do so by a medical officer of health or the Minister and in default he shall in addition to any other penalty forfeit his office or be dismissed from his employment. R.S.O. 1950, c. 408, s. 14.

Laboratory reports

**15.** No person shall issue or make available to any person other than a physician or such persons as are engaged in the administration of this Act any laboratory report either in whole or in part of an examination made to determine the presence or absence of venereal disease. R.S.O. 1950, c. 408, s. 15.

Hospitals to make provision for treatment, etc.  
R.S.O. 1960, c. 321

**16.** Every hospital receiving aid from Ontario, except isolation hospitals for the care of communicable diseases as defined by *The Public Health Act* shall make adequate provision for the reception, examination and treatment, upon such terms as may be prescribed, of such persons or classes of persons infected with venereal disease as may by this Act or

the regulations be required or permitted to be treated at such hospital and in case of default the Treasurer of Ontario may withhold from any hospital the whole or any part of any grant or subsidy that would otherwise be payable. R.S.O. 1950, c. 408, s. 16.

**17.** The medical officer of health of each municipality shall make provision for the adequate treatment of all persons infected with venereal disease within such municipality when such persons apply or are referred to him or when requested to do so by the Minister. R.S.O. 1950, c. 408, s. 17.

**18.—(1)** The treasurer of the municipality shall forthwith upon demand, pay the amount of any account for services performed, materials or supplies furnished, or any expenditure incurred under the direction of the medical officer of health in carrying out the provisions of this Act and the regulations.

(2) The name of any person infected or suspected to be infected with any venereal disease shall not appear on any account in connection with treatment therefor, but the case shall be designated by a number and it is the duty of every local board of health to see that secrecy is preserved.

(3) Every person who contravenes the provisions of subsection 2 is guilty of an offence and is liable to the penalties provided by sections 13 and 14. R.S.O. 1950, c. 408, s. 18.

**19.** Where any direction or order of a medical officer of health or magistrate involves the transfer of a person infected with venereal disease from one municipality to another municipality,

- (a) the medical officer of health of the second municipality shall, upon such transfer being effected and until the return of such person to the first municipality, exercise all the powers and perform all the duties conferred or imposed by this Act or the regulations upon a medical officer of health with respect to such person;
- (b) the liability of the first municipality under section 18 shall extend to any account for services performed, materials or supplies furnished, or any expenditure incurred in respect of such person under the direction of the medical officer of health for the second municipality in carrying out the provisions of this Act and the regulations; and
- (c) a duplicate original of every written report made by the person in medical charge of a place of detention

in which such person is placed in the second municipality to the medical officer of health thereof shall be sent forthwith to the medical officer of health of the first municipality. R.S.O. 1950, c. 408, s. 19.

Places of  
detention,  
mainten-  
ance,  
conduct

**20.** Where a person is admitted to a place of detention under this Act, whether such admission is voluntary or under the order of a magistrate or medical officer of health,

- (a) subject to the regulations, the provisions of law relating to the liability for and payment of maintenance of patients, inmates or pupils in such place of detention apply; and
- (b) such person is subject to all rules, regulations, and provisions of law governing the conduct of patients, inmates or pupils of such place of detention. R.S.O. 1950, c. 408, s. 20.

Where  
person  
infected  
is under  
16 years  
of age

**21.** Where any person infected or believed to be infected with venereal disease is a child under the age of sixteen years, all notices, directions or orders required or authorized by this Act or by the regulations to be given in respect of the child shall be given to the father or mother or to the person having the custody of the child for the time being and it is the duty of the father, mother or other person to see that the child complies in every respect with every such notice, order or direction and in default thereof the father, mother or other person, as the case may be, is liable to the penalties provided by this Act or the regulations for non-compliance with any such notice, direction or order unless on any prosecution in that behalf it is proven to the satisfaction of the court that the father, mother or other person did everything in his power to cause the child to comply therewith. R.S.O. 1950, c. 408, s. 21.

Grants

**22.** The Minister may make grants out of such moneys as may be appropriated by the Legislature for the purpose,

- (a) for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease in addition to or in lieu of any other moneys that may be payable for such purposes; and
- (b) so as to reimburse municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease,

in such amounts, at such times and upon such conditions as may be prescribed by the regulations. R.S.O. 1950, c. 408, s. 22.

**23.—(1)** The Lieutenant Governor in Council may make <sup>Regulations</sup> regulations,

- (a) prescribing the method and extent of the examination of any person for the purpose of ascertaining whether or not such person is infected with venereal disease or the extent of the infection;
- (b) prescribing the course of conduct to be pursued by any person infected with venereal disease in order to effect a cure and to prevent the infection of other persons;
- (c) prescribing the hospitals that shall furnish treatment to persons or any classes of persons infected with venereal disease;
- (d) prescribing rules for the treatment of persons infected with venereal disease in hospitals, places of detention and other places;
- (e) for preventing the spread of infection from persons suffering from venereal disease;
- (f) for distributing to physicians and hospitals information as to the treatment, diet and care of persons infected with venereal disease and requiring physicians and hospitals to distribute the information to such persons;
- (g) providing for the approval by the Minister of methods and remedies for the treatment, alleviation and cure of venereal disease;
- (h) providing for the display of notices and placards dealing with venereal disease, its cause, manifestation, treatment and cure;
- (i) prescribing the forms of notices, certificates and reports required or authorized to be given or issued under this Act;
- (j) requiring every physician to furnish reports with respect to the condition and treatment of persons infected with venereal disease who are or who have been under his diagnosis, treatment, care or charge;
- (k) prescribing the procedure to be followed and the evidence required in case of an appeal to the Minister from any action or decision of a medical officer of health under this Act;

- (l) approving patent, proprietary or other medicines, drugs or appliances for the cure or alleviation of venereal disease;
- (m) providing for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the treatment of persons infected or suspected of being infected with venereal disease;
- (n) requiring the approval of the Minister to the appointment of duly qualified medical practitioners, nurses and other technical staff employed in clinics for the treatment of venereal disease;
- (o) prescribing the amounts of, the times at which and the conditions upon which grants may be made for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease and for reimbursing municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease;
- (p) prescribing fees that shall be paid under this Act;
- (q) prescribing the mode of sending or giving any notice, report or direction required or permitted to be sent or given by this Act or the regulations;
- (r) generally for the better carrying out of the provisions of this Act and for the prevention, treatment and cure of venereal disease.

Expenses  
of free dis-  
tribution

(2) The Minister may, out of any moneys appropriated by the Legislature for the purposes of this Act, provide for the payment of the expenses incurred in carrying out this Act and the regulations including the manufacture and free distribution to local boards of health, physicians and hospitals of any drug, medicine, appliance or instrument that the Minister may deem useful or necessary for the alleviation, treatment or cure of venereal disease or the prevention of infection therewith. R.S.O. 1950, c. 408, s. 23.

Appeal to  
Minister

**24.**—(1) Every person who deems himself aggrieved by any action or decision of a medical officer of health under this Act may appeal therefrom to the Minister by giving notice in writing to the Minister and to the medical officer of health.



(2) The Minister may require the appellant to furnish such information and evidence and to submit to such examination as may be prescribed or as the Minister may deem necessary to determine the matter in dispute. Evidence on appeal

(3) The decision of the Minister is final. R.S.O. 1950, c. 408, s. 24. Decision final

**25.** No action or other proceeding shall be brought against any physician in respect of any examination or certificate given or required to be given by him under this Act, without the consent in writing of the Minister. R.S.O. 1950, c. 408, s. 25. Actions

**26.** The medical officer of health or a physician designated by him in writing for the purpose may enter in and upon any house, outhouse or premises in the day time for the purpose of making inquiry and examination with respect to the state of the health of any person therein and may cause any person found therein who is infected with any venereal disease to be removed to a place of detention or may give such directions as may prevent other persons in the same house, outhouse or premises from being infected. R.S.O. 1950, c. 408, s. 26. Right of entry

**27.** The Deputy Minister of Health and any officer of the Department designated by the Minister shall be medical officers of health for Ontario within the meaning of this Act. R.S.O. 1950, c. 408, s. 27. Powers of Deputy Minister

**28.** The Minister may delegate to the Deputy Minister of Health or any other officer of the Department of Health any of the powers vested in him under this Act or the regulations. R.S.O. 1950, c. 408, s. 28. Delegation of powers

**29.** The administration of this Act and the regulations shall not interfere with the course of justice in the case of any person under arrest or in custody previous to trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder, provided that where it is necessary for the purpose of any examination authorized or required by this Act, such person may be held in custody until the results of the examination are known. R.S.O. 1950, c. 408, s. 29. Administration of Act not to interfere with course of justice

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## CHAPTER 416

**The Veterinarians Act****1.—(1) In this Act,**Inter-  
pretation

- (a) “animal” means a living being, other than a human being;
- (b) “Association” means the Ontario Veterinary Association;
- (c) “council” means the council of the Association;
- (d) “member” means a member of the Association;
- (e) “Minister” means the Minister of Agriculture;
- (f) “registered” means registered as a member under this Act and “registration” has a corresponding meaning;
- (g) “registrar” means the registrar of the Association;
- (h) “veterinary science” means the application of medicine or surgery to any animal, and includes diagnosing, prescribing, treating, manipulating and operating for the prevention, alleviation or correction of any disease, injury, pain, deficiency, deformity, defect, lesion, disorder or physical condition of or in any animal, with or without the use of instruments, appliances, medicine, drugs, anaesthetics, or antibiotic or biologic preparations, and also includes the giving of advice in respect of anything mentioned in this clause with a view to obtaining a fee or other remuneration.

**(2) Nothing in this Act applies to or affects,**Where Act  
does not  
apply

- (a) the furnishing of first aid or temporary assistance to an animal in an emergency;
- (b) the treatment of an animal by its owner, by a member of his household or by a person regularly employed by him in agricultural or domestic work;
- (c) the treatment of an animal by an employee of a member under the supervision of the member;
- (d) caponizing and the taking of poultry blood samples;

R.S.O. 1960,  
c. 22

- (e) the study, prevention and treatment of fish diseases;
- (f) any act done under *The Artificial Insemination Act*; or
- (g) the castration of calves, pigs and lambs. 1958, c. 121, s. 1.

Association  
continued

**2.** The Ontario Veterinary Association is continued as a corporation and every person registered is a member. 1958, c. 121, s. 2.

Power to  
acquire  
property

**3.** The Association may purchase, acquire or take by gift, devise, bequest or donation any real or personal property for the purposes of the Association and mortgage or lease the same, and may sell or otherwise dispose of any real or personal property not required for the purposes of the Association. 1958, c. 121, s. 3.

Council,  
composition

**4.—(1)** The council shall consist of not fewer than nine elected members, each of whom shall be a member of the Association.

elections

(2) The manner of electing the members of the council, the notification of the electors of the time and place of holding the election, the number of electoral districts and the boundaries thereof, the number of members to be elected by each district, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, the tenure of office of members and other necessary details shall be as determined by the by-laws.

quorum

(3) At any meeting of the council a majority of the members of the council constitutes a quorum. 1958, c. 121, s. 4.

Officers  
of council

**5.** The council shall at its first meeting in each year elect a president, a first vice-president and a second vice-president from among its members, who shall hold office until their successors are elected. 1958, c. 121, s. 5.

Fees and  
expenses

**6.** The members of the council, the president, the first vice-president and the second vice-president shall be paid such fees and travelling allowances as the by-laws fix. 1958, c. 121, s. 6.

Officers  
of Asso-  
ciation

**7.** The council may appoint and fix the remuneration of a registrar, a treasurer and a secretary, none of whom shall be a member of the council, and any or all of such offices may be held by one person. 1958, c. 121, s. 7.

**8.—(1)** The council may pass by-laws,

By-laws

- (a) respecting the admission and registration of members;
- (b) fixing the examination fee, the annual registration fee and the penalty for default in payment of the latter;
- (c) respecting the register of members;
- (d) prescribing the notice, the time, the place and the order of business of meetings of the members and of the council;
- (e) providing for the government and discipline of the members;
- (f) prescribing a code of professional ethics;
- (g) defining "unprofessional conduct", "gross negligence" and "incompetence", and designating criminal offences for the purposes of section 14;
- (h) respecting the election of the members of the council and its officers;
- (i) providing for the establishment and operation of committees;
- (j) respecting the board of examiners and the examinations;
- (k) prescribing the duties of the registrar, the treasurer and the secretary;
- (l) fixing the fees and travelling allowances of the members of the council and its officers;
- (m) establishing and governing scholarships, bursaries and prizes;
- (n) instituting and providing means for increasing the knowledge and skill of the members and for maintaining a high standard of professional ethics;
- (o) providing for and prescribing the terms and conditions of honorary membership and life membership in the Association;
- (p) respecting the management of the property of the Association;
- (q) providing for the investment of any money not immediately required in securities in which trust moneys may be invested by law;

(r) for all such purposes as may be deemed necessary or convenient for the management of the Association and the conduct of its affairs.

Interpre-  
tation of  
by-laws

(2) As between members, the ruling of the council on the construction and interpretation of the by-laws is final.

Approval  
of by-laws

(3) No by-law has any force or effect until it has been approved by a general meeting of the members, of which meeting notice shall be given by mail to all members at least thirty days before it is held. 1958, c. 121, s. 8.

Board of  
examiners

**9.**—(1) The council shall appoint annually a board of examiners.

Examina-  
tions

(2) Examinations of applicants for registration shall be held at least once a year at such place or places as the council may direct.

Application  
for regis-  
tration

(3) An application for registration shall be made to the registrar and referred by him to the council which may direct that registration be granted forthwith or that the applicant take an examination before the board of examiners or such members of the board as may be deputed by the council to conduct such examination, but in no case shall a graduate in veterinary science of the Ontario Veterinary College who applies for registration within one year after graduation be required to take a written examination.

Notice of  
result

(4) As soon as possible after the close of each examination, the members of the board who have conducted the examination shall make and file with the registrar a certificate stating the result of such examination, whereupon the registrar shall notify each candidate of the result of his examination and of the council's decision upon his application. 1958, c. 121, s. 9.

Eligibility  
for regis-  
tration

**10.** No person is eligible for registration unless the council is satisfied that he is,

- (a) a graduate in veterinary science of the Ontario Veterinary College or the University of Toronto;
- (b) a graduate in veterinary science of a veterinary college or university recognized by resolution of the council; or
- (c) entitled to practise under section 11. 1958, c. 121, s. 10.

Persons  
holding  
Minister's  
certificate  
entitled to  
practise

**11.**—(1) Notwithstanding anything in this Act, any person who holds a certificate from the Minister issued under clause c of section 5 of *The Veterinary Science Practice Act*, being chapter 51 of the Statutes of Ontario, 1920, or under *The Veterinary Science Practice Act*, being chapter 208 of the

Revised Statutes of Ontario, 1927, may practise veterinary science.

(2) The Minister may cancel any certificate mentioned in subsection 1. Cancellation of certificate

(3) Any person entitled to practise under subsection 1 is entitled to become a member upon making written application to the registrar. 1958, c. 121, s. 11. May become member

**12.—**(1) No person shall practise veterinary science unless he is registered. Practise prohibited without registration

(2) Certificates of registration shall be issued annually by the registrar and he shall keep a register of the names of those to whom certificates are issued. 1958, c. 121, s. 12. Certificates and register

**13.—**(1) Every member of the Association shall annually on or before the 1st day of January pay to the treasurer such registration fee, not exceeding \$50, as the by-laws prescribe for the year then commencing, and no certificate for that year shall be issued until the fee has been paid. Annual fee

(2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty, not exceeding \$25, as the by-laws prescribe. Default in payment

(3) As soon as a registration is suspended under subsection 2, the person affected ceases to be registered and the registrar shall make a note thereof in the register. 1958, c. 121, s. 13. Effect of suspension

**14.—**(1) The council may in its discretion suspend or cancel the registration of any member whom it has found to be guilty of unprofessional conduct, gross negligence or incompetence or who has been convicted by a court of competent jurisdiction of a criminal offence designated in the by-laws, or the council may reprimand or censure any such member. Suspension and cancellation of certificates

(2) The council shall not take any such action until after a complaint under oath has been filed with the registrar and a copy thereof forwarded to the member accused, nor without having previously summoned the member to appear before the council, nor without having heard evidence under oath in support of the complaint, nor without affording the member an opportunity of submitting evidence on his behalf. Procedure

(3) The council has for the purposes of this section all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Powers

Evidence  
to be taken  
down

(4) The evidence given at a hearing under this section shall be taken down by a duly sworn shorthand reporter.

Appeal

(5) Any person whose registration has been suspended or cancelled may within fifteen days after the date of the order of suspension or cancellation appeal to the Court of Appeal from the order, and the practice and procedure upon the appeal shall be the same as upon an appeal from the judgment of a Supreme Court judge presiding at a trial, and the Court of Appeal may confirm, vary, vacate or set aside the order and may make an order for payment of the costs of the appeal.

When order  
effective

(6) An order of the council suspending or cancelling the registration of a member does not affect the member's right to practise until the time within which an appeal may be taken has expired and, where an appeal is taken, the suspension or cancellation has been upheld by the Court of Appeal.

Effect of  
suspension

(7) As soon as the order for the suspension of a registration becomes effective, the person affected ceases to be registered and the registrar shall make a note thereof in the register.

Effect of  
cancellation

(8) As soon as the order for the cancellation of a member's certificate becomes effective, the person affected ceases to be registered and the registrar shall strike the name of the person from the register.

Restoration

(9) The council may restore the registration of any person whose certificate has been suspended or cancelled under this section upon such terms and conditions as it deems proper. 1958, c. 121, s. 14.

Evidence of  
registration

**15.**—(1) In every case where registration is in issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in his capacity as registrar is *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar.

Idem

(2) The absence of the name of any person from such copy is *prima facie* evidence that such person is not registered. 1958, c. 121, s. 15.

Courses in  
veterinary  
science

**16.** No person shall conduct any course in veterinary science without the written authorization of the Minister, and an authorization shall not be issued until he is satisfied that the requirements of admission and courses of study and instruction are at least equal in standard to those of the Ontario Veterinary College. 1958, c. 121, s. 16.



**17.** No person, other than a graduate in veterinary science of a college or university that is recognized by resolution of the council, shall use the title "Veterinary", "Veterinarian", "Veterinary Surgeon" or append to his name any such title or any abbreviation thereof. 1958, c. 121, s. 17. <sup>Use of titles restricted</sup>

**18.** No action shall be brought against a member for negligence or malpractice by reason of professional services requested of or rendered by him unless the action is commenced within six months after the matter complained of terminated. 1958, c. 121, s. 18. <sup>Limitations of actions</sup>

**19.** Any member is entitled to professional witness fees in attending any court of law in such cases as relate to veterinary science or the health or condition of any animal. 1958, c. 121, s. 19. <sup>Witness fees</sup>

**20.—(1)** Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable, for the first offence, to a fine of not less than \$100 and not more than \$200 or, for any subsequent offence, to a fine of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than three months, or both. <sup>Offences</sup>

**(2)** Any fine recovered for an offence under this Act is payable to the Association. 1958, c. 121, s. 20. <sup>Disposition of fines</sup>

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## CHAPTER 417

**The Vexatious Proceedings Act**

1.—(1) Where upon an application made by way of <sup>Procedure to prevent bringing of vexatious proceedings</sup> originating notice according to the practice of the court and with the consent in writing of the Attorney General a judge of the Supreme Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Supreme Court or in any other court against the same person or against different persons, the judge may order that no legal proceedings shall, without leave of the Supreme Court or a judge thereof, be instituted in any court by the person taking such vexatious legal proceedings, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

(2) The Attorney General has the right to appear and be <sup>Attorney General may be heard</sup> heard in person or by counsel upon any application under subsection 1.

(3) A copy of an order made under this section shall be <sup>Publication of order</sup> published in *The Ontario Gazette*. R.S.O. 1950, c. 410, s. 1.

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## CHAPTER 418

**The Vicious Dogs Act**

1. Where a dog is alleged to have bitten any person, the owner of the dog may be summoned to appear before a magistrate to show cause why the dog should not be destroyed and, if from the evidence produced it appears that the dog has bitten any person, the magistrate may make an order that the dog be destroyed. R.S.O. 1950, c. 411, s. 1.

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## CHAPTER 419

## The Vital Statistics Act

## INTERPRETATION

## 1. In this Act,

Interpre-  
tation

- (a) "birth" means the complete expulsion or extraction from its mother of a foetus that did at any time after being completely expelled or extracted from the mother breathe or show any other sign of life, whether or not the umbilical cord was cut or the placenta attached;
- (b) "cemetery" includes a vault, a mausoleum and any land that is set apart or used for the interment of the dead or in which bodies are buried;
- (c) "cemetery owner" includes the person who is in charge of a cemetery or crematorium under the authority of the owner thereof;
- (d) "certificate" means a certified extract of the prescribed particulars of a registration in the records of the Registrar General;
- (e) "cremation" means the disposal of a dead body by incineration under *The Cemeteries Act*;
- (f) "Deputy Registrar General" means the Deputy Registrar General appointed under this Act;
- (g) "division registrar" means a division registrar appointed under this Act and includes a superintendent of an Indian agency;
- (h) "divorce" means dissolution and annulment of marriage and includes nullity of marriage;
- (i) "error" means any incorrect information and includes omission of information;
- (j) "funeral director" means a person who takes charge of the body of a still-born child or a deceased person for the purpose of burial, cremation or other disposition;
- (k) "incapable" means unable through death, illness, absence from Ontario or otherwise;

R.S.O. 1960,  
c. 47

R.S.C. 1952,  
c. 149

- (l) "Indian" means an Indian within the meaning of the *Indian Act* (Canada) but does not include an enfranchised Indian;
- (m) "inspector" means an inspector of vital statistics appointed for the purposes of this Act;
- (n) "municipality" means a city, town, village, organized township or improvement district;
- (o) "notation" means any addition to, or alteration of, a registration in the records of the Registrar General or a division registrar;
- (p) "nurse" includes any person, other than a legally qualified medical practitioner, who attends at the birth of a child;
- (q) "occupier" includes a governor, keeper, warden, superintendent, manager or resident physician of any jail, prison, penitentiary or other place of detention, a children's home or orphanage, a public or private medical, surgical, maternity or mental hospital, or any public or private charitable institution, a manager of a hotel, and a keeper of a house for public accommodation, a tourist camp or other stopping-place for persons;
- (r) "prescribed form" means the form prescribed by the regulations;
- (s) "Registrar General" means the member of the Executive Council who is charged with the administration of this Act;
- (t) "religious body" means a church or any religious denomination, sect, congregation or society;
- (u) "state" means any state or territory of the United States of America, or the District of Columbia;
- (v) "still-birth" means the complete expulsion or extraction from its mother after the twenty-eighth week of pregnancy of a foetus that did not at any time after being completely expelled or extracted from the mother breathe or show any other sign of life;
- (w) "superintendent of an Indian agency" means a superintendent within the meaning of the *Indian Act* (Canada). R.S.O. 1950, c. 412, s. 1, *amended*.

#### ADMINISTRATION

Uniform  
system of  
registration

2.—(1) The Registrar General shall direct a uniform system of registration of births, marriages, deaths, still-births,



adoptions, divorces and changes of name in Ontario, and is charged with the enforcement of the provisions of this Act.

(2) The Registrar General shall cause the registrations of births, marriages, deaths, still-births, adoptions, divorces and changes of name occurring in Ontario and received in his office to be numbered in seven separate series and otherwise systematically filed according to each calendar year in accordance with the regulations and carefully kept in vaults provided for that purpose. Registrations to be numbered by Registrar General

(3) The Registrar General shall cause the registrations to be indexed separately according to each calendar year, and each index shall contain the numbers and such other particulars of the registrations as may be prescribed by the regulations. Indexing R.S.O. 1950, c. 412, s. 2.

**3.—**(1) The Registrar General shall examine the registrations received from the division registrars and, if the registrations are incomplete or unsatisfactory, he shall require such information to be supplied as may be necessary to complete the registration. Examination of registrations

(2) Where it is found upon examination that any registration received from a division registrar is incomplete as to the required signatures, the Registrar General shall cause the registration to be returned by registered mail to the proper division registrar in order that the signatures may be obtained. Registrations not signed

(3) The Registrar General shall cause all deaths registered under this Act to be classified according to the International List of Causes of Death as revised at the last decennial revision thereof by the International Commission assembled for that purpose and he shall supply free of charge to every legally qualified medical practitioner in Ontario a Physician's Pocket Reference Book explanatory of the list. Classification by International List of Causes of Death

(4) The Registrar General may collate, publish and distribute such statistical information regarding the births, marriages, deaths, still-births, adoptions, divorces and changes of name registered during any period as he may deem to be necessary and in the public interest. R.S.O. 1950, c. 412, s. 3 (1-4). Publication by Registrar General

(5) The Registrar General shall, after the close of the calendar year, file with the Provincial Secretary a report as to the number of births, marriages, deaths, still-births, adoptions, divorces and changes of names registered during the preceding calendar year. Annual report

(6) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report Tabling

before the Assembly if it is in session or, if not, at the next ensuing session. 1951, c. 91, s. 1.

Instructions  
by Registrar  
General

(7) The Registrar General shall prepare and issue to every division registrar such detailed instructions as may be required to procure the uniform observance of the provisions of this Act. R.S.O. 1950, c. 412, s. 3 (6).

Deputy  
Registrar  
General

R.S.O. 1960,  
c. 331

4.—(1) There shall be a Deputy Registrar General appointed by the Lieutenant Governor in Council who shall be deemed to be a deputy minister under *The Public Service Act*, who shall have direct supervision of the office of the Registrar General and be directly responsible to the Registrar General for the conduct of his office and who shall perform such other duties as may be prescribed by the regulations or delegated to him by the Registrar General.

Appoint-  
ment and  
duties of  
inspectors

(2) The Lieutenant Governor in Council may appoint inspectors of vital statistics for the purpose of this Act who shall perform such duties as may be prescribed by the regulations. R.S.O. 1950, c. 412, s. 4.

#### REGISTRATION OF BIRTHS

Duty of  
medical  
practitioners

5.—(1) Every legally qualified medical practitioner who attends at the birth within Ontario of a child shall give notice of the birth.

Duty of  
nurse

(2) Where no legally qualified medical practitioner is in attendance at the birth, the nurse in attendance shall give the notice of the birth.

Mode of  
giving  
notice

(3) The notice of the birth shall be in the prescribed form and shall be given by delivering or mailing the notice within two days after the day of birth to the division registrar of the registration division within which the child was born.

Notice to be  
preserved

(4) The notice so given shall be transmitted by the division registrar to the Registrar General and preserved by the Registrar General until such time as the registration of the birth has been completed under this Act. R.S.O. 1950, c. 412, s. 5.

Statement  
of birth

6.—(1) Within thirty days after the day of the birth within Ontario of a child,

(a) the mother;

(b) if the mother is incapable, the father; or

(c) if the mother and father are incapable, the person standing in the place of the parents of the child,

shall complete, certify and deliver or mail a statement in the prescribed form respecting the birth to the division registrar of the registration division within which the child was born, provided that the Registrar General may accept the statement of the father although the mother is not incapable. R.S.O. 1950, c. 412, s. 6 (1); 1959, c. 105, s. 1.

(2) Notwithstanding subsection 1, the father of an illegitimate child is not required to register the birth of the child.

No duty on father of illegitimate child to register

(3) The statement shall state whether the mother of the child is single, married, widowed or divorced, but shall not state whether the parents of the child are married to each other.

Contents of statement

(4) No indication of the paternity of the child shall be given in the registration of the birth of a child of a married woman, but the particulars of the husband may be given, provided that the statement is not rendered unreceivable by reason only of failure to supply the particulars of the husband.

Birth of child to married woman

(5) In the registration of the birth of a child of an unmarried woman, the child shall be registered in the name of the mother and no person shall be named as the father, provided that, where the person acknowledging himself to be the father and the mother so request in writing, the father may be named and the child registered in the name of the father in accordance with the request, and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making a notation thereon.

Name of illegitimate child

(6) If more than one child is delivered from the mother during a single confinement, a separate statement for each child shall be completed, certified and delivered or mailed as provided in subsection 1, and in each statement the number of children born during the confinement and the number in the order of birth shall be given. R.S.O. 1950, c. 412, s. 6 (2-6).

Plural births

7. If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6, every person upon whom the duty of completing, certifying and delivering or mailing the statement is imposed by section 6 remains liable to perform that duty notwithstanding the expiration of the time so provided, and is, in respect of each successive period of thirty days thereafter during which he neglects so to complete, certify and deliver or mail the statement, guilty of a contravention of this Act. R.S.O. 1950, c. 412, s. 7.

Contravention

Statement  
of birth  
when  
parents  
fail to  
supply  
statement

**8.**—(1) If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6,

(a) the occupier of the premises in which the child was born, if he has knowledge of the birth; or

(b) a nurse present at the birth,

shall, upon being required so to do by the Registrar General, complete, certify and deliver or mail the statement to the division registrar of the registration division within which the child was born.

Contra-  
vention

(2) Every person who has knowledge of the birth and who neglects to complete, certify and deliver or mail the statement respecting the birth of a child upon being required so to do under subsection 1 is guilty of a contravention of this Act. 1959, c. 105, s. 2.

Registration  
of birth

**9.**—(1) Upon receipt, within one year from the day of the birth of a child, of a statement in the prescribed form respecting the birth, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth.

Acknowledg-  
ment of  
registration

(2) Upon the registration of a birth, the division registrar shall issue to the person registering the birth, without charge, an acknowledgment of the registration of the birth in the prescribed form.

Not a  
certificate

(3) The acknowledgment of registration of a birth shall not be deemed to be or be used in any way as a birth certificate.

Not to  
register after  
one year

(4) A division registrar shall not register a birth after one year from the day of the birth. R.S.O. 1950, c. 412, s. 8.

Registration  
of birth by  
Registrar  
General

**10.**—(1) If the birth of a child has not been registered within one year from the day of the birth, application for the registration of the birth may be made to the Registrar General in the prescribed form by the person whose birth has not been registered or by any other person. R.S.O. 1950, c. 412, s. 9 (1).

Method of  
application  
for regis-  
tration

(2) The application shall be accompanied by,

(a) the prescribed fee;

(b) a statement in the prescribed form, completed and certified by the applicant or any other person;

(c) a statutory declaration in the prescribed form by the applicant or any other person; and

- (d) such other evidence as may be prescribed by the regulations. R.S.O. 1950, c. 412, s. 9 (2); 1959, c. 105, s. 3.

(3) If the Registrar General is satisfied as to the *bona fides* <sup>Registration</sup> of the application and the correctness and sufficiency of the evidence adduced in support thereof, and that the regulations have been complied with, he may register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth. R.S.O. 1950, c. 412, s. 9 (3).

**11.—**(1) If a living new-born child is found deserted, the <sup>Foundlings</sup> person who finds the child and any person in whose charge the child is placed shall give to the best of his knowledge and belief to the division registrar of the registration division within which the child is found, within seven days after the finding or taking charge of the child, such information concerning the birth of the child as the informant may possess.

(2) The division registrar, upon receipt of such information <sup>Duties of division registrar</sup> regarding the birth of the child and upon being satisfied that every effort has been made to identify the child without success, shall,

- (a) cause the person who found or has charge of the child to complete a statutory declaration concerning the facts of the finding of the child and to complete and certify, so far as the person is able, a statement in the prescribed form required under subsection 1 of section 6;
- (b) cause the child to be examined by the local medical officer of health or a legally qualified medical practitioner with a view to determining as nearly as possible the day of the birth of the child, and the examiner shall make a statutory declaration setting forth the facts as determined by the examination; and
- (c) make a detailed report of the case and transmit the report to the Registrar General together with evidence regarding the birth of the child.

(3) A legally qualified medical practitioner shall receive <sup>Fee</sup> a fee of \$5 for the examination under clause *b* of subsection 2, which fee shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund.

(4) The Registrar General, upon receipt of the evidence <sup>Registration of birth of foundlings</sup> referred to in subsection 2, shall review the case and, upon being satisfied as to the correctness and sufficiency of the facts stated, shall register the birth and for the purpose of registration shall establish for the child,

- (a) a date of birth;
- (b) a place of birth; and
- (c) a surname and given name.

Subsequent  
registration  
if child  
identified

(5) If, subsequent to the registration, the identity of the child is established to the satisfaction of the Registrar General, he may by order set aside the registration made pursuant to this section and cause the substitution of a new registration of the birth in accordance with the actual facts of the birth, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed.

Date of  
registration

(6) Where the identity of the child is established and a new registration is made pursuant to subsection 5, the date of the new registration shall be the date of the original registration.

Cancellation  
of cer-  
tificates

(7) The holder of a certificate issued in respect of a registration of a birth made pursuant to subsection 4, which registration has been withdrawn pursuant to subsection 5, shall deliver it forthwith upon demand to the Registrar General for cancellation. R.S.O. 1950, c. 412, s. 10.

Registration  
of child  
legitimated  
by subse-  
quent  
marriage

**12.—**(1) Where a child has been legitimated by the subsequent intermarriage of his parents, then upon the parents,

- (a) completing and certifying the statement required under subsection 1 of section 6;
- (b) delivering the statement, together with such evidence as to the legitimation as is required by the regulations, to the Registrar General; and
- (c) paying the prescribed fee,

the Registrar General shall,

- (d) register the birth as if the parents had been married to each other at the time of the birth; and
- (e) make a notation on the statement that the registration was made under this section,

and the statement constitutes the registration of the birth, provided that, upon proof that one of the parents is dead or mentally incapable, the application may be made by the other parent.

Original  
registration  
to be with-  
drawn

(2) Where the birth of the child has been registered before the marriage, the original registration shall be withdrawn from the registration files and shall be kept in a separate file and sealed. R.S.O. 1950, c. 412, s. 11.

**13.**—(1) Where the birth of a child has been registered and, Alteration of given name of child

(a) the given name by which the child was registered has been changed; or

(b) the child was registered without a given name,

the Registrar General, upon payment of the prescribed fee and upon receipt of a statutory declaration containing such particulars as may be prescribed by the regulations as to the change or giving of the given name, completed by the father, mother or guardian of the child, or the person procuring the name to be changed or given, shall cause a notation of the alteration or addition to be made on the registration of the birth.

(2) Where the change of the given name is effected by baptism, a certificate of baptism signed by the person who performed the rite of baptism shall be filed with the statutory declaration. Baptismal certificate to be filed

(3) This section applies only where the given name of the child was changed or the new name given within ten years after the birth of the child. Application of section

(4) No notation shall be made in a registration regarding the given name of a child except in the manner prescribed in subsection 1, or pursuant to the provisions of this Act in respect of adopted children, changes of names and correction of errors. Limitation on alterations to given name

(5) Every notation made pursuant to this section shall be dated and initialled by the officer designated by the regulations. Notation to be dated and initialled

(6) If subsequent to the making of a notation pursuant to this section application is made for a birth certificate, the certificate shall be prepared as if the registration had been made containing the changed or new given name at the time of registration, but, if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made pursuant to subsection 1. R.S.O. 1950, c. 412, s. 12. Changes to be shown on certificate

#### REGISTRATION OF STILL-BIRTHS

**14.**—(1) In the case of a still-birth within Ontario, the person who, in the case of a birth, would have been required to furnish particulars of the birth under subsection 1 of section 6 shall complete, certify and deliver a statement in the prescribed form respecting the still-birth to the funeral director in charge of the body. Statement re still-births

Medical  
certificate

(2) The legally qualified medical practitioner in attendance at a still-birth or, where there is no legally qualified medical practitioner in attendance, a coroner shall complete a medical certificate in the prescribed form of the cause of the still-birth and shall deliver it to the funeral director in charge of the body.

Duty of  
funeral  
director

(3) Upon receipt of the statement and the medical certificate, the funeral director shall complete the statement setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body and shall deliver the statement and medical certificate to the division registrar of the proper registration division.

Registration  
of still-  
birth

(4) Upon receipt of the statement and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the still-birth by signing the statement and medical certificate and thereupon the statement and medical certificate constitute the registration of the still-birth.

Burial  
permit

(5) Upon the registration of a still-birth, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the person requiring the same for the purpose of the burial, cremation or other disposition or removal of the body of the still-born child,

(a) an acknowledgment that the still-birth has been registered; and

(b) a burial permit for the purpose of the burial or other disposition of the body.

Application  
of ss. 5-10, 12,  
17-24

(6) Subject to the provisions of this section, sections 5 to 10, 12 and 17 to 24 apply *mutatis mutandis* to still-births. R.S.O. 1950, c. 412, s. 13.

#### REGISTRATION OF MARRIAGES

Marriages

**15.**—(1) Every marriage that is solemnized in Ontario shall be registered under this Act. R.S.O. 1950, c. 412, s. 14 (1).

Registration  
of marriage

(2) If an officer designated under clause *n* of section 55 is satisfied as to the correctness and sufficiency of a statement of marriage forwarded to the Registrar General under subsection 2 of section 29 of *The Marriage Act*, he shall register the marriage by signing the statement and then shall mail an acknowledgment of its receipt to the person who solemnized the marriage. 1958, c. 122, s. 1.

R.S.O. 1960,  
c. 228

Registration  
of marriage  
by Registrar  
General

**16.** If a marriage has not been registered within one year from the day of the marriage, the registration may be made by



the Registrar General upon such evidence as may be prescribed by the regulations. R.S.O. 1950, c. 412, s. 15.

#### REGISTRATION OF DEATHS

**17.—(1)** The death of every person who dies within Ontario shall be registered in the office of the division registrar of the registration division within which the death occurs or, if the place of death is not known, then in the office of the division registrar of the registration division within which the body is found. Place of registration of deaths

(2) A statement in the prescribed form containing personal particulars of the deceased person shall, upon the request of the funeral director in charge of the body, be completed, certified and delivered to the funeral director, Information respecting deceased

- (a) by the nearest relative present at the death or last illness, or any relative who may be available;
- (b) if no relative is available, by the occupier of the premises in which the person died or, if the occupier is the person who has died, by any adult person residing in the premises who was present at the death or has knowledge of the personal particulars;
- (c) if the death occurred in unoccupied premises and no relative is available, by any adult person who was present at the death or has knowledge of the personal particulars; or
- (d) by the coroner who has been notified of the death and has made an investigation or held an inquest regarding the death.

(3) The legally qualified medical practitioner who was last in attendance during the last illness of a deceased person or the coroner who conducts an investigation or inquest into the death of a person shall, forthwith after the death, investigation or inquest, as the case may be, complete and sign a medical certificate of death in the prescribed form, stating therein the cause of death according to the International List of Causes of Death as last revised by the International Commission called for that purpose, and shall deliver the medical certificate to the funeral director in charge of the body. Medical certificate

(4) Upon receipt of the statement containing the personal particulars and the medical certificate of death, the funeral director shall complete the statement containing personal particulars, setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body, and shall deliver the statement and the medical certificate to the Duty of funeral director

division registrar of the proper registration division. R.S.O. 1950, c. 412, s. 16.

Registration of death by division registrar

**18.—(1)** Upon the receipt, within one year from the day of the death of a person, of the statement containing the personal particulars and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the death by signing the statement and medical certificate, and thereupon the statement and medical certificate constitute the registration of the death.

Time limitation

(2) A division registrar shall not register any death after one year from the day of the death.

Duty of division registrar

(3) Upon the registration of a death, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the funeral director requiring the same for the purpose of the burial, cremation or other disposition or the removal of the body of the deceased person,

(a) an acknowledgment that the death has been registered; and

(b) a burial permit for the purpose of the burial or other disposition of the body.

Cause of death on burial permit

(4) Except as may be required by the regulations, the cause of death shall not be stated on a burial permit. R.S.O. 1950, c. 412, s. 17.

Registration in another registration division

**19.—(1)** If a death has occurred and it is impracticable to register it, by reason of distance, with the division registrar of the proper registration division, registration of the death may be made with the nearest division registrar who, upon payment of the prescribed fee, shall register the death and issue an acknowledgment of registration of death and a burial permit. R.S.O. 1950, c. 412, s. 18 (1); 1959, c. 105, s. 4.

Fee for registration in another division

(2) Where a death has been registered in accordance with subsection 1, the division registrar who registers the death is entitled to the fee for his own use. R.S.O. 1950, c. 412, s. 18 (2).

Death by violence or misadventure

**20.—(1)** If there is reason to believe that a person has died as a result of violence or misadventure or by unfair means or from any cause other than disease, or as a result of negligence, malpractice or misconduct on the part of others or under such circumstances as require investigation, no acknowledgment of registration of death and no burial permit shall be issued by the division registrar unless,

(a) the body has been examined by a coroner and the coroner has made inquiry into the circumstances of

the death or held an inquest as provided by *The Coroners Act*; R.S.O. 1960, c. 69

- (b) the coroner has signed the medical certificate of death; and
- (c) the other provisions of this Act regarding registration of death have been complied with.

(2) Where a person has died under any of the circumstances mentioned in subsection 1 and it is impracticable for the coroner to complete a medical certificate of the cause of death, he may issue his warrant to bury when he has examined the body as provided in *The Coroners Act*, and the division registrar shall issue a burial permit on the delivery to him of the warrant to bury, and the coroner shall, within two days of his determining the cause of death or of the completion of his investigation, certify and deliver or mail the medical certificate of death to the division registrar. R.S.O. 1950, c. 412, s. 19.

**21.**—(1) Subject to subsection 2 of section 20, no person shall bury, cremate or otherwise dispose of the body of any person who dies within Ontario or remove the body from the registration division within which the death occurred or the body is found, and no person shall take part in or conduct any funeral or religious service for the purpose of burial, cremation or other disposition of the body of a deceased person, unless the death has been registered under this Act and an acknowledgment of registration of death and a burial permit has been obtained from the division registrar. Registration before disposition of body

(2) The funeral director shall retain the acknowledgment of registration of death as evidence of his having complied with this Act. Acknowledgment to be retained by funeral director

(3) No person shall conduct a funeral or other religious burial service unless the burial permit signed by the proper division registrar is produced to him. Person not to conduct service unless burial permit produced

(4) A cemetery owner shall not permit the interment or cremation of the body of any person in the cemetery or crematorium unless the burial permit is delivered to him. Delivery of burial permit

(5) The cemetery owner shall retain the burial permit as evidence of his having complied with this Act. Cemetery owner to retain burial permit

(6) Where no person is in charge of the cemetery at the time of the burial or other disposition of the body, the funeral director shall write across the face of the burial permit the words "No person in charge" and shall append his signature thereto and return the burial permit to the division registrar of the registration division in which the burial or other disposition took place. Where no person in charge of cemetery R.S.O. 1950, c. 412, s. 20.

Removal  
of bodies

**22.**—(1) If the body of a person is to be removed to the place of burial or other disposition by a transportation company or other common carrier, the removal shall not take place until the burial permit has been affixed to the outside of the casket.

Death outside  
Ontario

(2) If the death occurred outside of Ontario and the burial or other disposition of the body is to take place in Ontario, a burial, transit or removal permit or such other document as may be prescribed or required under the laws of the jurisdiction in which the death occurred, signed by the proper officer of the place in which the death occurred, is sufficient authority for the burial or other disposition of the body. R.S.O. 1950, c. 412, s. 21.

Returns of  
burials and  
cremations

**23.** A cemetery owner shall, on or before the tenth day of each month, mail to the Registrar General a return in the prescribed form of the burials and cremations that took place in the cemetery or crematorium during the last preceding month. R.S.O. 1950, c. 412, s. 22.

Registration  
of death by  
Registrar  
General

**24.**—(1) If the death of a person has not been registered within one year from the day of the death, application for registration of the death may be made to the Registrar General in the prescribed form.

Method of  
application  
for regis-  
tration

(2) The application shall be accompanied by,

- (a) the prescribed fee;
- (b) the statement provided for in subsection 2 of section 17, completed and certified;
- (c) a statutory declaration in the prescribed form by the applicant or any other person; and
- (d) such other evidence as may be prescribed by the regulations.

Registra-  
tion of  
death

(3) If the Registrar General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, he may register the death by signing the statement, and thereupon the statement constitutes the registration of the death. R.S.O. 1950, c. 412, s. 23.

#### ADOPTION ORDERS

Registration  
of adoption  
orders  
R.S.O. 1960,  
c. 53

**25.**—(1) Upon receipt of a certified copy of an adoption order transmitted under section 73 of *The Child Welfare Act*, or any predecessor thereof, or a certified copy of an order, judgment or decree of adoption made by a court of competent

jurisdiction of another province or territory of Canada or of a foreign state, issued under the seal of the proper certifying authority, the Registrar General shall register the order, judgment or decree.

(2) If the birth of the person adopted,

Change in  
birth  
registration

(a) was registered in Ontario before the adoption; or

(b) is registered in Ontario after the adoption in accordance with this Act,

the Registrar General, upon production of evidence satisfactory to him of the identity of the person together with an application for the registration of the birth in the prescribed form, may by order set aside any registration made pursuant to section 9, 10, 11 or 12 or to this section and cause the substitution of a new registration of the birth in accordance with the facts contained in the adoption order, judgment or decree as if the adopted person had on the date and in the place of birth recorded in the original registration been born in lawful wedlock to the adopting parent, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed.

(3) Where a new registration is made pursuant to subsection 2, the date of the new registration shall be the date of the original registration. Idem

(4) Where a new registration has been made pursuant to subsection 2 and application is made for a birth certificate, the certificate shall be issued in accordance with the new registration. Birth certificate

(5) The holder of a birth certificate in respect of a registration of a birth that has been withdrawn pursuant to subsection 2 shall, forthwith upon demand by the Registrar General, deliver it to the Registrar General for cancellation. Idem  
1958, c. 122, s. 2.

**26.**—(1) If a child born in another province or in any state has been adopted in Ontario pursuant to *The Child Welfare Act*, the Registrar General shall transmit a certified copy of the order to the person having charge of the registration of births in the province or state in which the child was born. Child born in another province or state  
R.S.O. 1960, c. 53

(2) If a child born in a jurisdiction other than a province or state has been adopted in Ontario pursuant to *The Child Welfare Act*, the Registrar General, upon request, may transmit a certified copy of the order to the person having charge of the registration of births in the jurisdiction in which the child was born. Child born in another jurisdiction  
R.S.O. 1950, c. 412, s. 25.

## CHANGES OF NAMES

Registration  
of change  
of name

**27.**—(1) Upon receipt of a document that satisfies the Registrar General that the name of a person whose birth or marriage is registered in Ontario has been changed in accordance with the law of the province or territory of Canada or of the foreign state in which the document was made, the Registrar General shall register the document and note the change of name on the birth or marriage registration of the person.

Certificate  
after change  
of name

(2) Where a change of name has been noted on a birth or marriage registration and application is made for a birth or marriage certificate, the certificate shall be issued as if the registration had been made in the name as changed.

Registration  
of annulment  
of change  
of name

(3) Upon receipt of a document that satisfies the Registrar General that a document effecting a change of name has been annulled in accordance with the law of the province or territory of Canada or of the foreign state in which such documents were made, the Registrar General shall register the document and note the annulment on the birth or marriage registration of the person and on the document effecting the change of name.

Notation to  
be dated and  
initialled

(4) Every notation made under this section shall be dated and initialled by an officer designated by the regulations. 1958, c. 122, s. 3.

## DIVORCE DECREES

Statement  
by registrar  
respecting  
divorce  
decrees

**28.**—(1) The Registrar of the Supreme Court and every local registrar of the Supreme Court shall, from time to time, as prescribed by the regulations, furnish to the Registrar General a statement in the prescribed form respecting each final decree of divorce entered by him in the Supreme Court.

Notation of  
decree upon  
registration  
of marriage

(2) If the marriage dissolved or annulled by the decree was solemnized in Ontario and registered with the Registrar General, the Registrar General, upon receipt of the statement of the divorce, shall register the statement and shall cause a notation of the decree with a reference to the registration of the statement to be made upon the registration of the marriage, and shall cause a reference to the registration of the marriage to be endorsed on the statement.

Divorce  
decrees of  
other juris-  
dictions

(3) Where a marriage that has been registered in Ontario has been dissolved or annulled by an order, judgment or decree made by a court of competent jurisdiction in another province, or by an Act of the Parliament of Canada, the Registrar General, upon receipt of a certified copy of the order, judgment, decree or Act issued under the seal of the proper certifying authority, shall register the order, judgment, decree

or Act and shall cause a notation thereof with a reference to its registration to be made upon the registration of the marriage, and shall cause a reference to the registration of the marriage to be endorsed on the copy of the order, judgment, decree or Act.

(4) If, subsequent to the registration of the divorce, application is made for a marriage certificate, the certificate shall contain a copy of the notation made under subsection 2 or 3. Certificate of marriage after divorce registered

(5) The Registrar and the local registrars of the Supreme Court shall receive a fee of 50 cents for each statement of a divorce furnished to the Registrar General and the fees shall be payable from time to time by the Treasurer of Ontario out of the Consolidated Revenue Fund. Fee for statement of divorce

(6) Every notation made pursuant to this section shall be dated and initialled by the officer designated by the regulations. Notation on registration

(7) No certificate of divorce shall be issued by the Registrar General. R.S.O. 1950, c. 412, s. 27. Certificates prohibited

**29.**—(1) Where a marriage that has been performed in another province has been dissolved or annulled in Ontario, the Registrar General, upon receipt of the statement respecting the decree of divorce in respect of the marriage, transmitted under section 28, shall require the Registrar or local registrar who transmitted the statement to furnish him with a certified copy of the order, judgment or decree issued under the seal of the proper certifying authority. Marriage performed in another province

(2) Upon receipt of the certified copy, the Registrar General shall transmit it to the person having charge of the registration of marriages in the province in which the marriage was performed. R.S.O. 1950, c. 412, s. 28. Idem

#### REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON BOARD SHIP

**30.** Upon receipt from the Minister of Transport of information transmitted under the *Canada Shipping Act* (Canada), respecting the birth of a child or the death of a person on board a ship whose port of registry is within Ontario, the Deputy Registrar General may register the birth or death. R.S.O. 1950, c. 412, s. 29. Births and deaths on board ship R.S.C. 1952, c. 29

#### CHURCH RECORDS

**31.**—(1) Any cemetery company or association, or any religious body or historical society or association, or any corporation or individual, in possession of any record of births, Filing of church records

marriages, baptisms or deaths that may be of value in establishing the genealogy of any resident in Ontario, may, with the approval of the Registrar General, deposit the record with the Registrar General without charge.

Records to  
be pre-  
served

(2) Upon being deposited, the records shall be preserved and remain in the custody of the Registrar General as part of the records of his office. R.S.O. 1950, c. 412, s. 30.

#### CORRECTION OF ERRORS IN REGISTRATIONS

Corrections  
by division  
registrar

**32.**—(1) If, while the registration of any birth, death or still-birth is in the possession of a division registrar, it is reported to him that an error has been made in the registration, he shall inquire into the facts and, if he is satisfied that an error has been made in the registration, he may correct the error according to the facts by a notation on the registration without any alteration being made in the registration.

Correction  
by personal  
appearance

(2) If the person originally supplying the information contained in a registration to be corrected appears in person, the division registrar may permit correction in the original entry.

Correction  
by Registrar  
General

(3) If, after a registration has been received or made by the Registrar General, it is reported to him that an error has been made, the Registrar General shall inquire into the facts and, upon the production of evidence satisfactory to him, supplemented by statutory declaration in the prescribed form, he may correct the error by a notation on the registration without any alteration being made in the registration.

Certificate  
of registra-  
tion that  
has been  
corrected

(4) If, subsequent to the correction of an error, application is made for a certificate pursuant to this Act, the certificate shall be prepared as if the registration had been made containing correct particulars at the time of registration, but, if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made pursuant to subsection 1 or 3.

Notation on  
registration

(5) Every notation made pursuant to this section shall be dated and initialled by the person making the correction or the officer designated by the regulations. R.S.O. 1950, c. 412, s. 31.

Substitute  
registrations

**33.**—(1) If, after a registration of birth has been received or made by the Registrar General, it appears or is reported to him that, because of incorrect information in the registration, the registration does not comply with the requirements of subsections 4 and 5 of section 6, the Registrar General shall inquire into the facts and, upon production of evidence satisfactory to him, supplemented by statutory declaration in the



prescribed form, he may, instead of correcting the error under section 32, order that the registration be cancelled and that a new registration of the birth be made.

(2) Where an order is made under subsection 1, the Registrar General shall attach the order to, and cause a notation of the order to be made on, the existing registration, and the existing registration and order shall be filed with the substituted registration.

Order to be  
attached to  
registration

(3) If, subsequent to the substitution of a registration under this section, application is made for a birth certificate pursuant to this Act, the certificate shall be issued having regard to the substituted registration only, but, if a certified copy of the registration of the birth is required, the certified copy shall include a certified copy of the original registration, the order, and the substituted registration. 1954, c. 101, s. 1.

Certificates  
and certified  
copies

#### REGISTRATION DIVISIONS

**34.**—(1) The whole of Ontario shall be divided into registration divisions.

Registration  
divisions

(2) Every municipality is a registration division.

Municipal  
units

(3) The Lieutenant Governor in Council may divide that part of Ontario not within a municipality into registration divisions, and may from time to time extend, reduce, subdivide or annul any such registration division or merge it in whole or in part with one or more registration divisions and may attach any territory or portion thereof not being part of a municipality to a registration division constituted under subsection 2. R.S.O. 1950, c. 412, s. 32.

Unorganized  
territory

#### APPOINTMENT AND DUTIES OF DIVISION REGISTRARS

**35.**—(1) The clerk of every municipality is *ex officio* division registrar of the registration division formed by the municipality and any territory thereto attached unless the Lieutenant Governor in Council appoints some other person as a division registrar in his stead.

Municipal  
clerks to be  
division  
registrars

(2) The Lieutenant Governor in Council may appoint the division registrar for a registration division that is formed of territory not within a municipality or attached to a municipality.

Appoint-  
ment of  
division  
registrar in  
unorganized  
territory

(3) The division registrar has power to take the affidavit or statutory declaration of any person for the purposes of this Act. R.S.O. 1950, c. 412, s. 33 (1-3).

Power to  
take affi-  
davits

(4) A division registrar may, with the approval of the Registrar General, appoint one or more deputy division regis-

Deputy  
division  
registrars

trars to act for him and any such deputy while so acting has all the powers and duties of the division registrar who appointed him. 1958, c. 122, s. 4.

Sub-registrars

(5) A division registrar may, with the approval of the Registrar General, appoint sub-registrars for the special purpose of issuing burial permits upon the delivery of a completed statement of personal particulars and medical certificate and upon payment of a special fee of 25 cents.

Sub-registrar to forward documents

(6) A sub-registrar shall forthwith transmit the statement of personal particulars and the medical certificate to the division registrar by whom he was appointed. 1951, c. 91, s. 3.

Duties of division registrars

**36.** The division registrar shall,

- (a) receive and sign statements and registrations and issue burial permits;
- (b) supply, free of charge, any prescribed form required by any person in order to comply with this Act;
- (c) keep all registrations, records, notices and documents received by him in a place of safety;
- (d) use all available means to obtain the necessary information for the purpose of completing the registrations required to be made by him;
- (e) inform the proper person of the duty to furnish him with particulars for the registration of a birth, death or still-birth if he has reason to believe that any has taken place within his division and has not been registered, and, on the failure of the person to make the registration within seven days, supply to the Registrar General such information as he has in his possession regarding the failure of any person to furnish the required particulars;
- (f) examine every statement of birth, death or still-birth in order to ascertain whether or not it has been completed in the prescribed form;
- (g) ensure that every registration of birth, death or still-birth has been written legibly in durable ink;
- (h) refuse to accept any statement that does not contain all the items of information required therein unless he has received a satisfactory explanation for the omission;
- (i) call attention to any defects in a statement of personal particulars or medical certificate of death that is incomplete or unsatisfactory, and withhold the

issuance of the acknowledgment of registration of death and the burial permit until the defects have been corrected;

- (j) sign every registration as division registrar in attestation of the date of registration in his office;
- (k) number consecutively the registrations of births, deaths and still-births in separate series beginning with "No. 1" for the first registration of a birth, death or still-birth in each calendar year;
- (l) transmit to the Registrar General as required by the regulations the registration of every birth, death and still-birth made by him;
- (m) report the fact to the Registrar General, in the prescribed form, if no birth, death or still-birth has been registered;
- (n) keep such records as may be prescribed by the regulations; and
- (o) transmit to the proper division registrar within forty-eight hours every registration of birth, death or still-birth received by him that did not occur within his registration division. R.S.O. 1950, c. 412, s. 34.

**37.** Every division registrar shall, under the direction of the Registrar General, enforce this Act in his registration division and shall make an immediate report to the Registrar General of any contravention of this Act of which he has knowledge. R.S.O. 1950, c. 412, s. 35.

Report to Registrar General of any contravention of Act

#### REMUNERATION OF DIVISION REGISTRAR

**38.—(1)** Every municipality shall pay annually, on the 1st day of February, to the division registrar, a remuneration of 25 cents for each registration of a birth, death or still-birth transmitted to the Registrar General during the preceding calendar year, on presentation of the certificate of the Registrar General to the treasurer of the municipality, but a municipality may by by-law with the approval of the Registrar General limit the aggregate remuneration of the division registrar or provide for the payment of a stated annual remuneration.

Remuneration of division registrar

**(2)** Remuneration at double the rates set forth in subsection 1 shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund to every superintendent of an Indian agency and to every division registrar appointed by

Remuneration in unorganized territory

the Lieutenant Governor in Council for any registration division not included in or attached to a municipality.

Monthly  
remunera-  
tion per-  
missible

(3) Nothing in this section prevents the remuneration of a division registrar being paid to him monthly, but in that case the remuneration shall be paid within ten days of the presentation of the certificate of the Registrar General. R.S.O. 1950, c. 412, s. 36, *amended*.

#### FORMS

Registrar  
General to  
distribute  
forms

**39.**—(1) The Registrar General shall distribute the prescribed forms to the division registrars.

Cost of  
forms

(2) The cost of the prescribed forms and the distribution thereof shall be paid out of the Consolidated Revenue Fund.

No other  
forms to  
be used

(3) No forms shall be used for the purposes of this Act other than the prescribed forms supplied by the Registrar General. R.S.O. 1950, c. 412, s. 37.

#### CERTIFICATES AND SEARCHES

Contents,  
of birth  
certificate

**40.**—(1) A birth certificate shall contain only the following particulars of the registration:

- (a) name of the child;
- (b) date of birth;
- (c) place of birth;
- (d) sex;
- (e) date of registration; and
- (f) registration number.

of death  
certificate

(2) A death certificate shall contain only the following particulars of the registration:

- (a) name, age and marital status of the deceased;
- (b) date of death;
- (c) place of death;
- (d) sex;
- (e) date of registration; and
- (f) registration number.

of marriage  
certificate

(3) A marriage certificate shall contain only the following particulars of the registration:

- (a) names of the parties;

- (b) date of the marriage;
- (c) place of the marriage;
- (d) place of birth of each of the parties;
- (e) date of registration; and
- (f) registration number.

(4) No still-birth certificate shall be issued.

Still-birth  
certificate

(5) A certificate, order or other document, issued by the Registrar General pursuant to this Act, may bear the seal of office of the Registrar General. R.S.O. 1950, c. 412, s. 38.

Certificates  
under seal

**41.**—(1) Upon application and upon payment of the prescribed fee, any person who furnishes substantially accurate particulars, and satisfies the Registrar General as to his reason for requiring it, may obtain from the Registrar General a birth certificate in respect of any birth of which there is a registration in his office.

Who may  
obtain, birth  
certificate

(2) Upon application and upon payment of the prescribed fee, any person may obtain from the Registrar General a death certificate in respect of any death of which there is a registration in his office.

death  
certificate

(3) Upon application and upon payment of the prescribed fee,

marriage  
certificate

- (a) one of the parties to the marriage;
- (b) a parent of one of the parties;
- (c) a child of the marriage; or
- (d) any person with the approval of the Registrar General,

may obtain from the Registrar General a marriage certificate in respect of any marriage of which there is a registration in his office. R.S.O. 1950, c. 412, s. 39.

**42.**—(1) No certified copy of a registration of birth, death or still-birth shall be issued except to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee.

Who may  
obtain copy  
of registration  
of birth,  
death or  
still-birth

(2) No certified copy of a registration of marriage shall be issued except to one of the parties to the marriage or to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee. R.S.O. 1950, c. 412, s. 40.

Who may  
obtain copy  
of registration  
of marriage

Admissibility  
in evidence  
of certifi-  
cates, etc.

**43.**—(1) A certificate purporting to be issued under section 41 or a certified copy of a registration purporting to be issued under section 42 signed by the Registrar General or Deputy Registrar General or on which the signature of either of them is lithographed, printed or stamped is admissible in any court in Ontario as *prima facie* evidence of the facts so certified, and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed.

Exception

(2) Notwithstanding subsection 1, no birth certificate and no certified copy of a registration of birth or still-birth is admissible in evidence to affect a presumption of legitimacy. 1957, c. 126, s. 1.

No certifi-  
cates by  
division  
registrar

**44.** A division registrar shall not issue a certificate in respect of any birth, death, marriage or still-birth. R.S.O. 1950, c. 412, s. 42.

Searches

**45.**—(1) Any person who,

- (a) applies;
- (b) pays the prescribed fee; and
- (c) satisfies the Registrar General as to his reason for requiring it,

may have search made for the registration of any birth, death, marriage, still-birth, divorce, adoption or change of name in the indexes kept in the office of the Registrar General.

Search of  
church  
records

(2) Any person who,

- (a) applies;
- (b) pays the prescribed fee; and
- (c) satisfies the Registrar General as to his reason for requiring it,

may have search made for any birth, marriage, baptism or death in any record kept in the office of the Registrar General pursuant to section 31.

Information  
given on  
search

(3) The only information given upon a search under subsection 1 or 2 shall be as to the existence or otherwise of the registration, and the registration number if registered. R.S.O. 1950, c. 412, s. 43.

#### GENERAL PROVISIONS

Ontario  
registrations  
only

**46.** Subject to section 30, no registration shall be made of a birth, still-birth, marriage or death occurring outside Ontario. R.S.O. 1950, c. 412, s. 44.

**47.** This Act applies in respect of any birth, marriage, death, still-birth, divorce, adoption or change of name that heretofore occurred or that hereafter occurs. R.S.O. 1950, c. 412, s. 45, *amended*. Application of Act

**48.** No person shall issue any document that purports to be a certificate of a birth, marriage, death or still-birth other than a certificate provided for under this Act. R.S.O. 1950, c. 412, s. 46. Certificates not to be issued

**49.—(1)** If, after such notice to and the hearing of such interested parties as he considers proper, the Registrar General is satisfied that a registration was fraudulently or improperly obtained, he may order that a notation be made on the registration to that effect and thereafter no certificate shall be issued in respect of the registration. Registration unlawfully obtained

**(2)** Upon the making of an order under subsection 1, the Registrar General may require the delivery to him of every certificate previously issued in respect of the registration. Order for delivery of certificate

**(3)** If the Registrar General has reason to believe that a certificate in respect of a registration is being had or used for fraudulent or improper purposes, he may, after such notice to and the hearing of such interested parties as he considers proper, make an order requiring the delivery of the certificate to him. Certificate used improperly

**(4)** Any person who has in his possession or under his control a certificate in respect of which an order has been made under subsection 2 or 3 shall forthwith deliver the certificate to the Registrar General. R.S.O. 1950, c. 412, s. 47. Delivery of certificates

**50.** No division registrar or sub-registrar and no person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any records containing information obtained under this Act. R.S.O. 1950, c. 412, s. 48. Secrecy

#### OFFENCES

**51.—(1)** Every person who neglects or fails to give any notice, or to register or to furnish any statement, certificate or particulars respecting the birth, marriage, death, still-birth, divorce, adoption or change of name of any person as required by this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. Failure to give notice or furnish particulars

Neglect of  
division  
registrar  
to make  
returns

(2) If a division registrar fails to transmit to the Registrar General any registration or to make any return as required by this Act, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$100, and each succeeding week's continuance of failure to make the transmission or return constitutes a new and distinct offence; and the Registrar General may refuse to issue a certificate for the payment of any fee due to the division registrar until the transmission or return is made. R.S.O. 1950, c. 412, s. 49.

False in-  
formation

**52.**—(1) Every person who wilfully makes or causes to be made a false statement in any notice, registration, statement, certificate, return or other document respecting any particulars required to be furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or both; and every legally qualified medical practitioner who wilfully makes a false statement as to the cause of the death of any person, or represents himself as having been in attendance during the last illness of any person when in fact he was not called in attendance until after the death, is, in addition to any penalty imposed by this Act, subject to discipline by the Council of the College of Physicians and Surgeons of Ontario.

False in-  
formation

(2) Every person who wilfully makes or causes to be made a registration of a birth, marriage, death or still-birth as having occurred in Ontario in respect of any person whose birth, marriage, death or still-birth did not occur in Ontario is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or both. R.S.O. 1950, c. 412, s. 50.

Breach of  
secrecy  
provision

**53.** Any person contravening any of the provisions of section 50 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1950, c. 412, s. 51.

General  
offence

**54.** Every person guilty of any act or omission in contravention of this Act for which no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1950, c. 412, s. 52.

#### REGULATIONS

Regulations

**55.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing the duties of the Deputy Registrar General and providing for the delegation to him of



such of the powers and duties of the Registrar General as may be deemed necessary;

- (c) prescribing the duties of inspectors;
- (d) prescribing the system of filing of registrations;
- (e) prescribing the particulars of registrations to be entered in the indexes;
- (f) prescribing the duties of and records to be kept by the division registrars;
- (g) prescribing the conditions under which the division registrar shall state the cause of death on a burial permit;
- (h) prescribing the information and returns to be furnished to the Registrar General and fixing the times when information and returns are to be transmitted;
- (i) fixing the times when division registrars shall forward registrations to the Registrar General;
- (j) prescribing the duties of and returns to be made by sub-registrars;
- (k) designating the persons who may have access to or may be given information from the records in the Registrar General's office or in a division registrar's office, and prescribing an oath of secrecy to be taken by such persons;
- (l) for the registration of births, marriages, deaths, still-births, divorces, adoptions or changes of name in cases not otherwise provided for in this Act;
- (m) prescribing the fees to be paid for searches, certificates and anything done or permitted to be done under this Act and providing for the waiver of payment of any such fees in favour of any person or class of persons;
- (n) designating the officers who may sign registrations and notations;
- (o) prescribing the evidence on which the Registrar General may register a birth, still-birth, marriage or death after one year from the date thereof;
- (p) prescribing the evidence on which the Registrar General may make a registration of birth in the case of a child legitimated by the subsequent inter-marriage of his parents;

- (q) requiring the persons in charge of hospitals to make returns of the births of all children born in the hospitals;
  - (r) prescribing special forms for registrations in respect of Indians;
  - (s) providing that registrations in respect of Indians shall be kept separate from other registrations;
  - (t) authorizing every superintendent of an Indian agency in Ontario to act *ex officio* as division registrar for the Indians under his jurisdiction;
  - (u) for the purpose of effectively securing the due observance of the Act and generally for the better carrying out of the provisions thereof and obtaining the information required thereby. R.S.O. 1950, c. 412, s. 53.
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## CHAPTER 420

## The Voters' Lists Act

## 1. In this Act,

Interpre-  
tation

(a) "board" means an election board established under  
*The Election Act*;

R.S.O. 1960,  
c. 118

(b) "judge" means the judge of the county or district court of the county or district and includes a junior or acting judge, but does not include a deputy judge;

(c) "polling subdivision", "rural polling subdivision" and "urban polling subdivision" mean such polling subdivisions as defined in *The Election Act*;

(d) "prescribed" means prescribed by this Act or by the regulations made under this Act;

(e) "voter" means a person entitled to be a voter, or to be named in the voters' list as qualified to be a voter either at an election of a member of the Assembly or at a municipal election, as the case may be. 1951, c. 93, s. 1.

2.—(1) The Lieutenant Governor in Council may prescribe rules and forms of procedure for the purpose of better carrying out Parts I and II.

Rules and  
forms

(2) The forms in the Schedule to this Act may be modified or varied, but any such modification or variation is subject to the approval of the judge. 1951, c. 93, s. 2.

Forms

## APPLICATION OF PARTS

3.—(1) Part I applies to towns, villages, townships and, except as varied by Part II, to cities.

Application,  
Part I

(2) Part II applies to every city in which a by-law has been passed fixing separate dates for the return of the assessment rolls for each ward or division of a ward, as defined in the by-law.

Part II

(3) Where through accident, fire or otherwise a municipality has no assessment roll or voters' list prepared under Part I or II, the municipality shall for the purposes of this

Where list  
destroyed  
by fire or  
accident

Act be deemed to be a part of Ontario without municipal organization. 1951, c. 93, s. 3.

Fees and  
expenses  
paid by  
Province

4. The fees and expenses of the board, the revising officers and clerks, the clerks of municipalities and the clerks of the peace in connection with the revision of the lists for provincial elections under Part III are payable by the Province, and such fees and expenses shall be paid out of the Consolidated Revenue Fund to the persons entitled thereto upon the certificate of the chairman of the board and the Auditor of Criminal Justice Accounts. 1951, c. 93, s. 4.

Revising  
officer's  
decision  
final

5. The decision of the revising officer under Part III in regard to the right of any person to vote, or as to the right to enter on or strike from the lists the name of any person as a voter, is final. 1951, c. 93, s. 5.

Returning  
officer to  
act on  
receipt of  
telegram in  
lieu of actual  
receipt of  
writ  
R.S.O. 1960,  
c. 118

6. Notwithstanding any other provision in this Act or *The Election Act* or any regulations made under either of such Acts, a returning officer in any electoral district, on being advised by the Chief Election Officer by telegraph that a writ of election has been directed to him, shall forthwith commence his duties as prescribed by such Acts and regulations, without waiting until he actually receives the writ. 1951, c. 93, s. 6.

## PART I

### LIST OF VOTERS

List of  
voters

7.—(1) The clerk of each municipality, immediately after the return of the assessment roll in every year, shall make a correct list for each polling subdivision of the municipality (Form 1) of all persons appearing by the assessment roll or by the supplementary roll prepared by the assessor to be voters. 1951, c. 93, s. 7 (1); 1954, c. 102, s. 1 (1).

How  
made up

(2) The list shall be made up in the same order as the assessment roll is prepared in the municipality except where the council by resolution has directed that it be made up alphabetically. 1951, c. 93, s. 7 (2).

Where  
biennial  
elections

(3) Notwithstanding any other provision in this Act, the clerk of the municipality is not required to prepare a voters' list in any year in which a municipal election is not to be held.

Municipal  
electors  
only

(4) In the case of a person appearing by the assessment roll to be a voter at municipal elections but not at provincial elections, the clerk shall insert in the proper column opposite

the name of such person the letters "M.E.". 1954, c. 102, s. 1 (2).

(5) The name of the same person shall not be entered more than once on the list, except that in the case of a municipality divided into wards the name of the same person shall be entered upon the list as qualified to vote at municipal elections in every ward in which he is assessed for a sufficient amount to qualify him so to vote. 1951, c. 93, s. 7 (5); 1954, c. 102, s. 1 (3). Name to be entered once only

(6) Where a municipality is divided into polling sub-divisions, lists shall be made for each subdivision. 1951, c. 93, s. 7 (6). List for polling sub-divisions

(7) In the case of a person who is a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as provided by *The Municipal Act*, or by reason of being a farmer's daughter, farmer's sister or farmer's son's wife, the clerk shall insert the letters "M.F.N.C." opposite the name of such person in the proper column, meaning that such person is entitled to vote at municipal elections, but is not to be counted for the purpose of determining representation in the county council. 1951, c. 93, s. 7 (7); 1954, c. 102, s. 1 (4). Entering name of husband or wife of person rated R.S.O. 1960, c. 249

(8) Where the qualification of a person to be a voter at a municipal election is in respect of real property, the clerk shall insert in the proper column opposite the name of such person, the number of the lot or other proper description of the parcel of real property in respect of which such person is so qualified adding thereto, where the person is so qualified in respect of more than one lot or parcel, the words "and other premises". Where qualification in respect of real property

(9) In the case of a person being a farmer's son or a farmer's daughter, the clerk shall insert opposite the name in the proper column the words "Farmer's Son" or "Farmer's Daughter" or the letters "F.S." or "F.D.", as the case may be. Farmer's son and farmer's daughter

(10) Where a ward is divided into polling subdivisions and it appears by the assessment roll that a person is assessed in each of two or more polling subdivisions for property sufficient to entitle him to be a voter at a municipal election, the clerk shall enter his name on the list for one subdivision only, and shall insert opposite his name the words "and other premises", and where to the knowledge of the clerk the person resides in one of the subdivisions, his name shall be entered on the list for that subdivision. Entry where voter assessed in several divisions of same ward

Where  
property  
partly in  
one sub-  
division  
and partly  
in another

(11) Where it appears by the assessment roll that a person is assessed for property within the municipality sufficient to entitle him to be a voter at a municipal election, but that the property lies partly within one subdivision and partly within another or others, the clerk shall enter the name of such person on the list of voters in only one of the subdivisions in which the property is situate, and add the words "Partly qualified in subdivision No. . . . .".

Entry in  
list of person  
assessed as  
freeholder  
or tenant

(12) Where the word "Owner" or the letter "O", or the word "Tenant" or the letter "T", appears in the assessment roll opposite the name of a person entitled to be entered on the list, such word or letter shall be placed opposite the name of such person. 1951, c. 93, s. 7 (8-12).

Entries of  
those  
qualified  
as jurors

(13) The clerk in making out the list shall, in a separate column provided for the purpose, insert the letter "J" in the list opposite the name of every person over twenty-one and under seventy years of age who by the roll appears to be qualified and liable to serve as a juror, and the list shall show at or near the end thereof the aggregate number of names of persons upon the list qualified to serve on juries, and in the case of municipalities divided into wards the list shall give the same information for each ward. 1951, c. 93, s. 7 (13); 1954, c. 102, s. 1 (5).

Entries of  
separate  
school  
supporters

(14) The clerk shall, in a separate column of the voters' list, insert the letter "S" opposite the name of every person who is shown on the assessment roll as a separate school supporter and also after the name of the wife or husband of every such person if the wife or husband is shown by the roll to be a Roman Catholic. 1951, c. 93, s. 7 (14).

Entry of  
P.O. address  
of voter

**8.—**(1) The clerk of every township, in making out the list, shall insert therein a schedule (Form 1) containing the name, numbered consecutively, of every post office which by the assessment roll appears as the address of any person on the list and shall, according to the form and in the proper column therefor, insert opposite the name of every voter entered on the list the consecutive number which according to the schedule is his post office address, so far as the address appears by the assessment roll or is within the knowledge or belief of the clerk, but no appeal or complaint, on the ground of any error, mistake or omission in or from the list in respect of any matter or thing directed to be inserted therein by this section, shall be made or allowed by or under this Act.

Entry of  
non-resident  
voter in  
polling sub-  
division  
other than  
where  
qualified

(2) Where it appears by the assessment roll of a township that a person who is not resident in the township is entered upon the assessment roll and assessed for sufficient property to entitle him to vote at municipal elections in the township,

such non-resident person at any time after the return of the assessment roll and before the reproduction of the voters' list by the clerk may give notice in writing, signed by him and verified by a statutory declaration, to the clerk requesting that his name be entered on the voters' list for some other polling subdivision in the township than that in which he is so assessed, and thereupon the clerk may enter the name of the non-resident person on the list for any other polling subdivision so designated and after the name shall enter the property in respect of which he is qualified to vote and the polling subdivision in which the property is situate. 1951, c. 93, s. 8.

9.—(1) Immediately after the clerk has made the list, and within thirty days after the return of the assessment roll, the clerk shall cause at least 175 copies of the list to be reproduced by mechanical means in pamphlet form, and immediately thereafter shall cause one of such copies to be posted up and kept posted up in a conspicuous place in his office, and deliver or mail fifteen copies to the clerk of the peace and one copy, Printing  
and dis-  
tribution  
of list

- (a) to the judge or senior judge of the county or district court of the county or district to which the municipality belongs for judicial purposes;
- (b) to the head and every member of the council of the municipality;
- (c) to the sheriff;
- (d) to every postmaster in the municipality;
- (e) to the secretary of every school board in the municipality;
- (f) to the clerk of the council of the county in which the municipality is situate;
- (g) to the registrar of deeds, if he has so requested in writing before the 1st day of July in the year;
- (h) to the clerk of the division court within whose division the municipality or any part thereof is situate, if he has so requested in writing before the 1st day of July in the year;
- (i) to the member of the House of Commons and of the Assembly for the electoral district in which the municipality or any part thereof is situate; and
- (j) to every other candidate for whom votes were given at the then last election of a member of the House of Commons and of the Assembly, respectively, for the electoral district in which the municipality or any

part thereof is situate, who has so requested in writing before the 1st day of July in the year. 1951, c. 93, s. 9; 1954, c. 102, s. 2.

Where  
assessment  
roll delayed

(2) Where the assessment roll of a municipality is not returned on or before the 1st day of October and there is not or will not be time after its return to complete the preparation and revision of the voters' list in accordance with the other provisions of this Act before the time set for the polling in the municipality, the clerk shall print, post up and distribute in accordance with subsection 1 the required number of copies of the voters' list as certified in the next preceding year, and the proceedings thereafter shall be the same as if the list so printed, posted up and distributed was a list prepared by the clerk in accordance with sections 7 and 8. 1952, c. 112, s. 1.

Certificate  
of clerk

**10.**—(1) Upon each of the copies of the list so delivered or mailed there shall be a certificate of the clerk (Form 2) stating that the list is a correct list of all persons appearing by the assessment roll to be voters at provincial and municipal elections and of all persons appearing by the assessment roll to be voters at municipal elections only, and that the letters "M.E." have been inserted in the proper column opposite the names of all persons appearing by the assessment roll to be voters at municipal elections only, and the certificate shall contain a clause calling upon all voters to examine the lists and to take immediate proceedings to have omissions or errors corrected according to law. 1954, c. 102, s. 3.

Endorse-  
ment of  
date

(2) Upon the outside or cover of each of the copies so sent shall be printed or written conspicuously the date of the posting up of the list thus:

"This list was posted up in the Clerk's Office on the.....day of....., 19.....".

1951, c. 93, s. 10 (2).

Posting up

**11.** Upon receipt of the copies of the list, the sheriff shall post up one copy in a conspicuous place in the court house, the clerk of the peace shall post up one copy in a conspicuous place in his office, and every postmaster shall post up one copy in a conspicuous place in his post office. 1951, c. 93, s. 11.

Notice of  
transmission  
and posting  
up of list

**12.** The clerk shall also forthwith cause to be inserted at least once in a newspaper published in the municipality, or, if none is published therein, in a newspaper having a general circulation in the municipality, a notice (Form 3) signed by him which shall state that he has delivered or transmitted the copies of the list as directed by this Act, and the date of



the first posting up of the list in his office, and the last day for entering appeals. 1951, c. 93, s. 12.

**13.—**(1) The list is subject to revision by the judge at the instance of any voter who complains that the names of voters have been omitted from the list or wrongly stated therein, or that the names of persons who are not entitled to be voters have been entered in the list, and the following provisions of this Part and of Part II, so far as they are applicable, apply to the revision of the list. 1954, c. 102, s. 4.

Revision  
of list  
by judge

(2) Upon the revision, the assessment roll is not conclusive evidence in regard to any matter.

Assessment  
roll not  
conclusive

(3) Upon the revision, no person is disentitled to have his name entered on the list by reason of his having omitted to make, sign or deliver any statement or affidavit required by *The Assessment Act*, or of his name not having been entered on the assessment roll.

Idem

R.S.O. 1960,  
c. 23

(4) The decision of the judge as to the right of any person to vote, or as to the right to enter on or strike from the list the name of any person as a voter, is final.

Judge's  
decision  
final

(5) In the case of a list for a town, village or township, the judge shall receive, as evidence in support of an application to have the name of a person entered on the list, the affidavit of such person or of some other person who has and deposes that he has personal knowledge of the matter set forth in the affidavit (Form 4), if the affidavit is made not earlier than the tenth day next preceding the last day for making complaints to the judge and is delivered to the clerk before the time for making complaints has expired. 1951, c. 93, s. 13 (2-5).

When  
evidence by  
affidavit  
receivable

**14.—**(1) Any voter whose name is entered on or who is entitled to have his name entered on the list has the right for all purposes of this Act, upon giving notice in writing (Form 5) within fourteen days after the clerk has posted up the list in his office, to apply, complain or appeal to have his own name or the name of any person corrected in, entered on or removed from the list.

Who may  
appeal or  
complain

(2) Any person who has acquired the qualification entitling him to vote at a municipal election before the time for giving the notice of appeal to the judge has expired shall be deemed to be a person entitled to be entered on the list, and if entered thereon he shall be entered also on the assessment roll and shall be assessed for his property if not already assessed therefor without any request on his part, and the judge and clerk, for the purpose of such assessment, have the powers and shall perform the duties mentioned in section 41. 1951, c. 93, s. 14 (1, 2).

Persons who  
have  
acquired  
qualification  
before time  
for giving  
notice has  
expired

Complaint  
that person  
named on  
list has lost  
qualification

(3) A person whose name is entered on the list and has, before the time for giving notice of appeal to the judge has expired, ceased to possess the qualification in respect of which his name was so entered, on complaint being duly made under section 16, shall be deemed to be wrongfully entered on the list and, subject to section 18, his name shall be removed therefrom. 1951, c. 93, s. 14 (3); 1954, c. 102, s. 5.

Proviso

(4) For the purpose of determining whether a person has acquired or has ceased to possess the qualification entitling him to vote at a municipal election for the purposes of this section, the assessment roll upon which the current voters' list is based shall be deemed not to have been returned. 1951, c. 93, s. 14 (4).

Powers of  
judge

**15.** The judge may, without a previous notice of appeal or complaint, on an application made by or on behalf of a person entered on the list, correct any mistake that appears to have been made in compiling the list in respect of the name, place of abode, qualification, or the local or other description of the property of a person entered on the list and with respect to whose right to be so entered an appeal or complaint is pending before the judge. 1951, c. 93, s. 15; 1954, c. 102, s. 6.

Proceedings  
on  
complaint

**16.—(1)** A voter making a complaint in respect of the list shall, within fourteen days after the clerk has posted up the list in his office, give to the clerk or leave for him at his residence or place of business notice in writing (Form 5) of his complaint.

Vacancy in  
office of  
clerk

(2) If the office of clerk is vacant, the notice may be given in like manner to the deputy clerk or to the head of the council of the municipality, and he shall perform all the duties of the clerk. 1951, c. 93, s. 16 (1, 2).

Procedure

(3) The proceedings thereafter by the judge, clerk and the parties respectively, and the powers and duties of the judge, clerk and other persons shall be the same, as nearly as may be, as in the case of an appeal from the court of revision under *The Assessment Act*, but no deposits shall be required. R.S.O. 1950, c. 93, s. 16 (3); 1952, c. 112, s. 2 (1).

R.S.O. 1960,  
c. 23

[NOTE.—See Forms 5-10.]

Allowances  
and expenses  
of judge

(4) The judge shall be paid by the municipality such allowances and expenses as may be prescribed by the Lieutenant Governor in Council. 1952, c. 112, s. 2 (2).

Distribution  
of list of  
appeals

(5) The clerk shall forthwith after posting up the list of appeals in his office deliver or send by registered mail one copy of the list to the judge, the clerk of the peace and each

of the persons described in clauses *b*, *i* and *j* of section 9. 1951, c. 93, s. 16 (4).

**17.—**(1) Any person may obtain from the county or district court of the county or district a subpoena (Form 11) or from the judge an order, requiring the attendance of a witness residing or served with the subpoena or order in any part of Ontario and requiring the witness to produce any papers or documents mentioned in the subpoena or order, and every witness served with the subpoena or order shall obey the same if his expenses according to the scale allowed in division courts are paid or tendered to him at the time of service. Compelling attendance of witnesses

(2) Any person in respect of the entry or omission of whose name a complaint is made shall, if resident within the municipality for or in which the court is held, upon being served with a subpoena or order obey the same without being tendered or paid his expenses, and the subpoena or order shall be deemed to have been sufficiently served, Compelling attendance of persons whose right is in question

(a) if the subpoena or order is served upon him personally; or

(b) where he has a known residence or place of business within the municipality, if a copy of the subpoena or order is left for him with some adult person at his residence or place of business; or

(c) where he has a known residence or place of business within the municipality, if a copy of the subpoena or order, at least six days before the sitting of the court, is sent to him by registered mail directed to him at the post office address contained in any affirmation made by him under *The Assessment Act*, and where no such affirmation has been made, directed to him at his last known post office address, and also by separate registered letter directed to the post office described as his post office in the voters' list unless the last-mentioned post office is his last known post office address, or in the case of cities, towns and villages if no post office is described for him in the voters' list, directed to the post office of such city, town or village; or R.S.O. 1960, c. 23

(d) where he is a farmer's son, if a copy of the order or subpoena is left for him with some person at the residence of the farmer whose son he is.

(3) If a person whose right to be a voter is the subject of inquiry does not attend in obedience to the subpoena or order, the judge, in the absence of satisfactory excuse being shown Penalty for non-attendance

for the non-attendance or of proof of right of the person to be a voter, may, on the ground of his non-attendance, strike his name off or refuse to enter his name on the list.

*Prima facie*  
evidence  
of certain  
facts

(4) The fact that the name of the person is entered on the last revised voters' list of the electoral district is *prima facie* evidence that he is a British subject and twenty-one years of age.

Number of  
names

(5) The names of any number of witnesses may be inserted in one subpoena or order. 1951, c. 93, s. 17.

When  
qualification  
incorrectly  
stated

**18.** If on complaint or appeal to strike off the name of a person on the list it appears that the qualification of the person is incorrectly set forth therein but that he has the qualification necessary to entitle his name to be entered on the list, the judge shall not strike off the name of the person but shall make such alterations in the list as are necessary to set forth the proper qualifications of the person, and in so doing may, if the letters "M.E." have been incorrectly inserted or omitted opposite the name, correct the error. 1951, c. 93, s. 18; 1954, c. 102, s. 7.

Time within  
which list  
to be  
revised

**19.** The judge shall so arrange and proceed and fix the sittings of the court that all the complaints shall be heard and determined and the list finally revised, corrected and certified within one month from the last day for making complaints. 1951, c. 93, s. 19; 1954, c. 102, s. 8.

Certifying  
list by  
clerk of the  
peace when  
no complaint  
made

**20.—(1)** If no complaint is made within fourteen days after the clerk has posted up the list in his office, he shall forthwith deliver or mail to the clerk of the peace his report (Form 12), and the clerk of the peace shall thereupon certify (Form 13) a sufficient number of copies of the list as being the last revised list of persons entitled to be voters at elections to the Assembly as well as at municipal elections, and if persons entitled to vote at municipal elections only in the municipality, to furnish one copy of the list,

- (a) to the judge;
- (b) to the clerk of the peace;
- (c) to the clerk of the municipality;
- (d) to every candidate for whom votes were given at the then last election of a member for the House of Commons and the Assembly, respectively, for the electoral district in which the municipality or any part thereof is situate, who has so requested in writing before the 1st day of July in the year. 1951, c. 93, s. 20 (1); 1954, c. 102, s. 9.

(2) The clerk of the peace shall retain one certified copy <sup>Certificate of clerk of the peace</sup> and shall deliver or mail one certified copy to each of the persons described in clauses *a*, *c* and *d* of subsection 1. 1951, c. 93, s. 20 (2).

**21.**—(1) If any complaint is made and allowed by the judge, he shall, immediately after the list has been finally revised, certify (Form 14) to the clerk a statement of the changes made by him in the list. <sup>Statement of changes made by judge</sup>

(2) The clerk shall thereupon prepare a sufficient number of copies of the statement of changes made by the judge to furnish one copy for each of the persons described in clauses *a*, *c* and *d* of subsection 1 of section 20, and shall, within one week after the revision has been made by the judge, deliver or mail such copies of the statement of changes, together with the certificate of the judge, to the clerk of the peace, and such statement shall be made out according to polling subdivisions and shall show the changes made in the list for each polling subdivision. <sup>Delivery of copies</sup>

(3) The clerk of the peace shall thereupon sign and certify (Form 15) such copies together with a copy of the voters' list received by him from the clerk and deliver or send by registered mail one copy to each of the persons described in clauses *a*, *c* and *d* of subsection 1 of section 20. <sup>Certificate of clerk of the peace on copies</sup>

(4) Instead of proceeding as provided in subsections 1, 2 and 3, the judge may direct the clerk to prepare a sufficient number of copies of the list as revised by the judge to furnish one copy for each of the persons described in clauses *b*, *c* and *d* of subsection 1 of section 20, and the clerk shall within one week after the revision has been made transmit or deliver such copies to the judge, and the judge shall thereupon sign and certify (Form 16) such copies and shall retain one and shall deliver or mail one copy to each of the persons described in clauses *b*, *c* and *d* of subsection 1 of section 20. 1951, c. 93, s. 21. <sup>Delivery and certification of copies of revised list</sup>

**22.** The clerk of the peace is entitled to remuneration at the rate of \$1 per copy for the services performed by him under subsection 2 of section 20 and subsection 3 of section 21, such remuneration to be paid by the municipality. 1951, c. 93, s. 22. <sup>Remuneration of clerk of the peace</sup>

**23.**—(1) After the list has been certified and before the nomination day at a municipal election, the judge may, upon the application of a voter, strike from the list the name of a person who has died since the list was certified, and for that purpose the certificate of the Registrar General is suffi- <sup>Striking off names of persons dying after revision</sup>

cient evidence of death, but if the identity of the person proved to be dead with the person whose name is sought to be struck off is disputed or open to reasonable doubt, proof of the identity shall be required.

Procedure

(2) The proceedings shall be the same as nearly as may be as those prescribed for the revision of the list, and the judge and the officers named in this Act have the same jurisdiction as in the case of proceedings to revise the list under this Act. 1951, c. 93, s. 23.

Correction  
of list  
after re-  
visions of  
assessment  
roll

**24.** If the assessment roll is not certified by the court of revision or revised by the judge before the time limited for the final revision, correction and certifying of the voters' list by the judge, and, upon appeal to the court of revision or to the judge, alterations are made in the assessment roll affecting the right of a person to be entered on the list, the court of revision shall forthwith after certifying the roll and the judge shall forthwith after revising the roll, make out and certify a list of such alterations and deliver it to the clerk who shall make corresponding changes in the certified copies of the revised list, and the judge shall initial the changes. 1951, c. 93, s. 24.

Effect of  
certified  
list

**25.** The certified list is final and conclusive evidence that all persons named therein, and no others, were qualified to vote at any municipal election at which such list was, or was the proper list to be, used except,

- (a) persons guilty of corrupt practices at or in respect of the election in question, or since the list was certified by the judge;
- (b) persons who, subsequent to the list being certified, have ceased to be qualified to vote at a municipal election in the municipality to which the list relates and who by reason thereof are, under *The Municipal Act*, disentitled to vote;
- (c) persons whose names are entered on the list under the authority of a certificate issued pursuant to subsection 7 of section 37 of *The Municipal Act*. 1951, c. 93, s. 25.

R.S.O. 1960,  
c. 249

Duty of  
municipality  
to provide  
room

**26.—(1)** The municipality within which a court is to be held shall provide a suitable and convenient place, properly furnished, heated and lighted, for the holding of the court, and in default thereof the judge may hold the court at such place in the county or district as he may deem proper, and if the court is held elsewhere than in the court house of the county or district, the occupant of the building in which it is

held may recover from the municipality the sum of \$5 for each day on which the building was used for the purpose of the court.

(2) Every court held in the county or district town shall be held in the court house, or in such other place as the judge deems proper. 1951, c. 93, s. 26. Courts in county towns

**27.** In all proceedings before the judge he has all the powers that belong to or might be exercised by him in the county court. 1951, c. 93, s. 27. Powers of judge

**28.** The clerk of every municipality is subject to the summary jurisdiction and control of the judge in the performance of his duty under this Act in the same manner as an officer of the county court is to the court. 1951, c. 93, s. 28. Clerk

**29.**—(1) The clerk is entitled to all reasonable disbursements necessarily incurred by him in the discharge of the duties imposed upon him under this Act and is also entitled to the following compensation: Remuneration of clerk in connection with complaints

1. For the name of every person entered in the list of complaints.....\$ .05
2. For every name entered in any necessary copy of the list of complaints..... .05
3. For every name entered or other correction made by the judge in the voters' list, and in every copy of the revised list..... .05
4. For every name in the statement of changes made by the judge in the list..... .05
5. For every necessary notice to any party complaining or complained against..... .15
6. For every mile necessarily and actually travelled by him in effecting service of a notice of appeal or complaint and in attendance at the hearing of complaints or appeals..... .08
7. For every day's attendance at the sittings of the court..... 5.00

(2) The assessor is entitled to all reasonable disbursements necessarily incurred by him in the discharge of the duties imposed upon him under this Act and to an allowance of \$5 per diem for every day's attendance at the court and to 8 cents for every mile necessarily and actually travelled by him to attend at the hearing of complaints or appeals. 1951, c. 93, s. 29. Remuneration of assessor

**30.**—(1) The judge has power to appoint a proper person to attend as constable at the sitting of the court, and the Appointment of constable

duties and powers of such person shall be as nearly as may be the same as those of a bailiff at a sitting of a division court.

Constable's  
fees

(2) The constable is entitled to the following compensation:

1. For every day's attendance.....\$4.00
2. For every service of any process or notice, including the receipt and return thereof, and all other duties connected therewith when allowed by the judge, a sum not exceeding 20 cents per mile one way for each mile necessarily and actually travelled to effect such service.

1951, c. 93, s. 30.

Payment  
of fees

**31.** The compensation to which the clerk, assessor and constable are respectively entitled shall be certified by the judge and paid to the clerk, assessor and constable respectively by the treasurer of the municipality upon the production and deposit with him of the judge's certificate. 1951, c. 93, s. 31.

Report by  
judges as to  
frauds, etc.

**32.** If the judge who holds the court is of the opinion that any person has contravened section 46 or 48, or that frauds in respect of the assessment or the list have prevailed extensively in the municipality, he shall report the same to the Attorney General with particulars as to names and facts. 1951, c. 93, s. 32.

Amend-  
ments

**33.** The judge may amend any notice or other proceeding upon such terms as he may think proper. 1951, c. 93, s. 33.

Substitution  
of new  
appellant

**34.** If an appellant or complainant dies or abandons his appeal or complaint or is found not to be entitled to be an appellant, the judge may in his discretion allow any other person who might have been an appellant or complainant to intervene and prosecute the appeal or complaint upon such terms as the judge may think proper. 1951, c. 93, s. 34.

Costs oc-  
casioned by  
errors

**35.—(1)** If errors are found in the voters' list on the revision thereof in the omission of names, the inaccurate entry of names or the entry of names of persons not entitled to vote and it appears to the judge that the assessor or clerk was blamable for any of the errors, the judge may order (Form 17) the assessor or clerk to pay all costs occasioned by such errors.

Order for  
payment by  
municipality

(2) In case of errors for which the court of revision is blamable, the judge may order the municipality to pay the costs occasioned by such errors.

Discretion  
of judge

(3) In all cases not provided for, the costs are in the discretion of the judge. 1951, c. 93, s. 35.



**36.** The costs to be allowed on any proceeding under this Act shall be according to the lowest scale of costs in an action in a division court. 1951, c. 93, s. 36. Scale of costs

**37.** An unsuccessful appellant or complainant is liable to pay the witness fees only, unless in the opinion of the judge the complaint or appeal is frivolous or vexatious or has not been made in good faith, in which case the judge may order the appellant or complainant to pay in addition any other costs allowed by section 36. 1951, c. 93, s. 37. Liability of appellant for costs

**38.** Payment of costs may be enforced by an execution (Form 18) against goods and chattels, to be issued from the division court of the division within which the municipality or part thereof is situate upon filing therein the order of the judge and an affidavit showing the amount at which the costs have been allowed and the non-payment thereof. 1951, c. 93, s. 38. Enforcing payment of costs

**39.—(1)** In order to facilitate uniformity of decision without the delay and expense of appeals, Reference to Court of Appeal

(a) a judge may state a case on any question arising or likely to arise and may transmit it to the Lieutenant Governor in Council who may immediately refer it to the Court of Appeal for the opinion of the court; or

(b) the Lieutenant Governor in Council may state a case on any such question to the Court of Appeal for the opinion of the court.

(2) Immediately upon receipt of the case, the court shall appoint a time and place for hearing argument, of which written notice shall be given by the Registrar of the Supreme Court posting up a copy of the notice in his office in Osgoode Hall, Toronto, at least ten clear days before the time appointed. Time and place of argument

(3) At the time appointed the court shall hear the argument by such of the counsel present as the court may think proper to hear, and shall certify to the Lieutenant Governor in Council the opinion of the court thereon, and the opinion shall be published forthwith in *The Ontario Gazette*, and a copy of the opinion shall forthwith be sent to the judge of every county and district court. 1951, c. 93, s. 39. Hearing

**40.** The Court of Appeal may also give an opinion on any question at the instance of a voter if the court sees fit, and the proceedings with respect thereto shall be, as nearly as may be, the same as upon a case referred; but the court or a judge thereof may require a deposit of money to cover the costs of Opinion at instance of voter

hearing the question argued by counsel and may require notice of the proceedings, or any of them, to be given to such person as the court or judge may direct. 1951, c. 93, s. 40.

Liability of persons added to roll on revision

R.S.O. 1960, c. 23

**41.** If a person who is found entitled to be a voter at municipal elections is not assessed or is insufficiently assessed, the judge shall enter the name of such person on the roll together with the other particulars required by *The Assessment Act* to be set opposite the name of the person assessed including the value of the property in respect of which the assessment is made, which shall be determined by the judge, and corresponding corrections shall be made by the clerk in the collector's roll. 1951, c. 93, s. 41.

Lists not vitiated by non-performance of clerk

**42.** The non-performance by the clerk of any of his duties under this Act within the times appointed shall not affect the validity of any list. 1951, c. 93, s. 42.

Summary application to enforce performance of duties

Application by voter

Proceedings by judge

**43.—(1)** If the clerk fails to perform any of his duties, the clerk of the peace shall forthwith apply summarily (Form 19) to the judge to enforce the performance thereof.

(2) The application may also be made by any voter.

(3) The judge shall require (Form 20) the clerk and any other person he sees fit to appear before him and produce the assessment roll and any documents relating thereto or to the list, and to submit to examination on oath, and may thereupon make such order and give such directions as he deems proper.

Liability of clerk for costs

(4) The clerk shall pay the costs of the proceedings unless on special grounds the judge otherwise orders, in which case the judge may direct how and by whom the costs are to be paid.

Clerk's liability to penalty

(5) The proceedings and order of the judge do not relieve the clerk from the penalty mentioned in section 44. 1951, c. 93, s. 43.

#### OFFENCES

Penalty for neglect of duties by clerk

**44.** Every clerk who omits, neglects or refuses to perform any of the duties hereinbefore required of him is guilty of an offence and on summary conviction is liable to a fine of \$200. 1951, c. 93, ss. 44, 49, *amended*.

Penalty for wilfully falsifying list

**45.** The wilful alteration of, omission from, incorrect entry in, or falsification of a certified list or copy thereof shall be an offence, and every clerk of a municipality, clerk of the peace or other person who commits such offence, or wilfully permits it to be committed, is guilty of an offence and on

summary conviction is liable to a fine of not less than \$500 and not more than \$2,000 and in addition may be imprisoned for a term of not more than three months. 1951, c. 93, ss. 45, 49.

**46.**—(1) No person shall be a party to any instrument or to any verbal arrangement whereby a colourable qualification is conferred or sought to be conferred upon himself or any other person in order to enable him to become a voter. Colourable transfer of property

(2) Every person who contravenes the provisions of this section, in addition to any other penalty prescribed in that behalf, is guilty of an offence and on summary conviction is liable to a fine of \$100. Penalty

(3) Every person who induces or attempts to induce another to commit an offence under this section is guilty of an offence and on summary conviction is liable to a like penalty. 1951, c. 93, ss. 46, 49. Procuring commission of offence

**47.** To prevent the creation of false votes, where a person claims to be assessed or to be entered or named in an assessment roll or claims that another person should be assessed, entered or named in an assessment roll so as to entitle him to be a voter, and the assessor has reason to suspect that the person claiming, or for or in respect of whom the claim is made, ought not to be so assessed, or so entered or named in the roll, the assessor shall make reasonable inquiries before assessing, entering or naming any such person in the assessment roll. 1951, c. 93, s. 47. Inquiries by assessor

**48.** Every person who wilfully and improperly enters or procures or causes to be entered the name of a person in an assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully enters or procures or causes to be entered a fictitious name in an assessment roll, or who wilfully and improperly omits or procures or causes to be omitted the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent to deprive a person of his right to be a voter, is guilty of an offence and on summary conviction is liable to a fine of \$200. 1951, c. 93, ss. 48, 49. Improper insertion of name in roll

**49.** A voter and an agent of a voter may, at all reasonable times and under reasonable restrictions, inspect and take copies of or extracts from assessment rolls, notices, complaints, applications and other documents and proceedings necessary or of use for carrying out the provisions of *The Municipal Act*, *The Assessment Act* or this Act, and the clerk for such purposes Right to inspect and copy assessment rolls, etc.

R.S.O. 1960, cc. 249, 23

shall accord all reasonable facilities consistent with the safety of the documents and the rights and interests of all persons concerned, and is in regard to such matters subject to the direction of the judge. 1951, c. 93, s. 50.

Fees for  
copies of  
list

**50.** The fees payable to the clerk of the peace and to the clerk of the municipality for furnishing copies of a list or any part of a list shall be those fixed by the Lieutenant Governor in Council. 1951, c. 93, s. 51.

## PART II

### PREPARATION OF WARD LISTS

Preparation  
of list  
where roll  
returned  
and revised  
by wards

**51.** Immediately after the return by the assessor of the assessment roll for any ward or division of a ward, and without waiting for the revision and correction of the roll by the court of revision or by the judge, the clerk of every city to which this Part applies shall prepare and cause to be reproduced the voters' list in the manner prescribed by Part I. 1951, c. 93, s. 52; 1954, c. 102, s. 10.

Posting up  
and distri-  
buting lists

**52.—(1)** Forthwith after the preparation and reproduction of the last of such lists, the clerk shall post up and distribute each of the lists for each ward or division in the manner prescribed by Part I, and forthwith after the clerk has posted up the lists in his office, he shall cause a notice to be inserted once a week for three weeks in such daily newspapers published in the city as may be directed by the judge, calling upon persons who are aware of errors or omissions in the lists, or of changes which have been rendered necessary by reason of the death or removal of any person named therein, or by reason of any person having acquired the necessary qualifications as a voter since the return of the assessment roll for any such ward or division of a ward to give notice of the same, and shall name a time and place at which the judge will hold a court for revising the lists for the whole city.

Time for  
making  
complaints

**(2)** The time for making complaints as to errors or omissions in the lists shall be within fourteen days after the first publication of the notice. 1951, c. 93, s. 53.

Time for  
final re-  
vision of  
lists

**53.** The judge shall so arrange and proceed and so fix the sittings of the court for hearing complaints against or in respect of the lists that the complaints will be heard and determined and the lists finally revised and certified in the manner provided by Part I before the day fixed for the nomination meeting. 1951, c. 93, s. 54.

**54.** If no complaint respecting any of the lists is received by the clerk within fourteen days after the first publication of the notice, the clerk shall apply forthwith to the judge to certify three copies of each of the lists as being the last revised list of voters for the ward or division and the judge shall certify such three copies and retain one and deliver or send by registered mail one to the clerk of the peace, and one to the clerk of the municipality, to be kept by him among the records of his office. 1951, c. 93, s. 55.

Certifying  
list where  
no complaint  
made

**55.** If any complaint is made as aforesaid with respect to any of the lists within such period, the judge shall proceed as provided by section 21, and sections 23 to 25 apply to the list prepared under this Part. 1951, c. 93, s. 56.

Procedure  
where  
complaint  
made

**56.** Subject to subsection 7 of section 37 of *The Municipal Act*, the lists as so revised, corrected and certified by the judge shall together form from time to time the last revised voters' list for the city within the meaning of this Act and *The Municipal Act*, and the date fixed by section 52 as the last day for making complaints to the judge shall be deemed to be the last day for making complaints to the judge within the meaning of any oath prescribed by that Act and such date shall be inserted in any such oath when the voting is upon a list prepared under this Part. 1951, c. 93, s. 57.

Effect of  
list as  
completed

R.S.O. 1960,  
c. 249

### PART III

#### PROVINCIAL LISTS IN URBAN POLLING SUBDIVISIONS

**57.** Every returning officer, forthwith after receipt of a writ of election, shall appoint in writing (Form 21) for each urban polling subdivision in the electoral district two persons to be enumerators of the voters in such subdivision and to prepare a list thereof, and shall require each of such persons to take the oath (Form 22). 1951, c. 93, s. 58.

Enumera-  
tors

**58.** Each enumerator shall exercise the utmost care in the preparation of the voters' list and the two enumerators appointed for each urban polling subdivision shall, with relation to each process in the preparation of the voters' list, act jointly and not individually, and in case of any disagreement they shall report the matter to the returning officer and in all respects are bound by his decision. 1951, c. 93, s. 59.

Enumera-  
tors to act  
jointly

**59.** The returning officer shall, as far as possible, select and appoint the two enumerators for each urban polling

Selection of  
enumera-  
tors

subdivision so that they represent two different and opposed political interests, as provided in section 60. 1951, c. 93, s. 60.

Nomination  
of enumera-  
tors

**60.**—(1) Forthwith after the issue of the writ for an election,

- (a) the person who apparently will be the candidate at the election of the political interest represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different and opposed political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish to the returning officer lists of nominations for appointment as enumerators, but such lists may be furnished to the returning officer at any time after his appointment and may be revised from time to time up to twenty-four hours before the enumeration is to begin.

Failure to  
make nomi-  
nations

(2) If twenty-four hours before the enumeration is to begin the returning officer has received insufficient nominations to provide two enumerators representing two different and opposed political interests for each polling subdivision, he shall make such additional appointments as he deems necessary to enumerate the electoral district. 1954, c. 102, s. 11.

Enumera-  
tors'  
equipment

**61.**—(1) The returning officer shall supply each pair of enumerators with,

- (a) a copy of the last revised voters' list prepared pursuant to Part I;
- (b) a book of enumerators' record forms (Form 23);
- (c) a supply of notices of inability to obtain information for the purposes of registration; and
- (d) a supply of voters' list forms (Form 24). 1951, c. 93, s. 62 (1); 1954, c. 102, s. 12 (1).

Preparation  
of list

(2) The enumerators shall forthwith upon their appointment, by means of,

- (a) a joint house-to-house canvass;
- (b) a reference to the voters' list prepared pursuant to Part I; and
- (c) such other sources as may be available to them,

prepare a list, under headings of names of streets where possible and in the order of street numbers in subdivisions in which street numbering is in effect, and in alphabetical order in all other subdivisions, of all persons in the urban polling subdivision who are qualified to vote at the election. 1951, c. 93, s. 62 (2); 1954, c. 102, s. 12 (2).

(3) The name, address and occupation of every person entitled to be entered on the list shall at the time of visiting the dwelling place of such person be entered on an enumerators' record form which shall be signed by both enumerators, and a duplicate thereof shall be detached from the book and left at such dwelling place.

(4) In making the house-to-house canvass the enumerators shall visit every dwelling place in the urban polling subdivision and, unless they have ascertained from an occupant of each such dwelling place that no person residing therein remains unregistered, they shall visit such place,

(a) at least once between 9 a.m. and 6 p.m.; and

(b) at least once between 7 p.m. and 10 p.m.,

and where, upon making the last of such visits, the enumerators are unable to secure all the information necessary to register all persons residing therein who may be qualified to vote at the election, they shall leave at such dwelling place a notice of inability to obtain information for purposes of registration (Form 25). 1951, c. 93, s. 62 (3, 4).

**62.**—(1) The enumerators, immediately after the completion of the list and not later than four days from the date of their appointment, shall certify the urban polling subdivision list (Form 24) on oath and deliver it to the returning officer together with the book of enumerators' record forms used in the preparation of the list, and shall prepare at least six copies of such list so certified and shall forthwith post up one copy in the office of the returning officer, one copy in a conspicuous place in the urban polling subdivision for which the list was prepared, and one copy in the office of the clerk of the municipality, for public inspection, and the returning officer shall distribute one copy to each candidate.

(2) The returning officer, forthwith upon receipt of the list from the urban enumerators, shall cause it to be printed and such printing shall be completed not later than the eighth day before the sittings of the revising officer.

(3) The returning officer shall furnish twelve printed copies of the list for each urban polling subdivision to each candidate.

1951, c. 93, s. 63.

Registration  
and revising  
districts

**63.** Every returning officer, as soon as conveniently may be after the issue of a writ directed to him for the holding of an election, shall group together the urban polling subdivisions in the electoral district into as many combined registration and revising districts as circumstances require, subject to the approval of the board, and shall prepare descriptions of the boundaries of such districts. 1951, c. 93, s. 64.

Revising  
officer,  
appoint-  
ment

**64.**—(1) The board shall appoint, from among its number, revising officers to hold sittings in the electoral district in which an election is to be held for the registration of voters and the revision of the lists for the urban polling subdivisions.

Idem

(2) Wherever practicable, the revising officer so appointed shall be the judge or one of the judges of the county or district court or the acting judge of the court; but where the county forms part of a district formed under *The County Judges Act*, a judge of any county included therein may be appointed revising officer. 1951, c. 93, s. 65.

R.S.O. 1960,  
c. 77

Where  
judge not  
available

**65.** Where, owing to the number of sittings to be held or from any other cause, the board finds it impracticable for a judge to act as revising officer, the board may appoint one of its own number, being a barrister of at least five years standing, a magistrate, or some other fit and proper person having the like qualification, to act as revising officer. 1951, c. 93, s. 66.

Clerks to  
revising  
officer,  
appointment

**66.** The board shall appoint one or more clerks to any revising officer as may be necessary, and such appointments shall be made as soon as conveniently may be after the issue of the writ for the election, and notice of such appointment and of the location of his office shall be published in all newspapers having a general circulation in the electoral district. 1951, c. 93, s. 67.

Oath by  
revising  
officer except  
the judge

**67.** Every revising officer shall, unless he is a judge, be sworn to the faithful and impartial performance of his duties. 1951, c. 93, s. 68.

Additional  
revising  
officers may  
be ap-  
pointed

**68.** If at any time the number of applications for registration and revision of the list at any registration and revising office is such that the revising officers cannot promptly dispose of them, the board may appoint additional revising officers or may provide clerical assistance for the revising officers acting thereat. 1951, c. 93, s. 69.

Board may  
replace  
revising  
officers

**69.** The board may at any time relieve any revising officer of his duties and appoint another to perform them, and any revising officer so relieved shall forthwith upon receiving



written notice from the board of the appointment of a substitute for him deliver to the board or to such other person as the board may appoint all lists, notices and other papers in his possession as revising officer. 1951, c. 93, s. 70.

**70.** As soon as conveniently may be after the issue of a writ for the holding of an election to fill a vacancy in the Assembly, or after the dissolution or expiry of the Assembly, the Chief Election Officer shall fix the times and the board shall fix general locations at which sittings shall be held by the revising officers for the purpose of the registration of voters and revising the lists for urban polling subdivisions compiled and certified by the enumerators. 1951, c. 93, s. 71.

Time and place for registration and revision

**71.** The returning officer shall select convenient places within the general locations fixed by the board in which the revising officers will sit, which places shall be properly furnished, lighted and heated, and he shall report thereon to the board. 1951, c. 93, s. 72.

Suitable places for sittings to be obtained

**72.** The returning officer shall furnish to the revising officers the original lists for each urban polling subdivision as prepared and certified by the enumerators. 1951, c. 93, s. 73.

List to be delivered to revising officers

**73.** The board shall cause a notice of the sittings of the revising officers to be printed in such form as may be prescribed by the board, and such notice shall be posted at least five days before the sittings in adequate numbers and in conspicuous places throughout the areas affected, and where possible, published in all newspapers having a general circulation in the electoral district, and before 9 a.m. on the day of registration and revision an additional five copies shall be posted up outside of and near to the place of registration and revision. 1951, c. 93, s. 74.

Notice of sittings to be given

**74.—(1)** Any person resident in any urban polling subdivision included in the registration district, whose name has not been included or has been incorrectly included by the enumerator in the list of voters for such subdivision, may apply at the place of registration for the registration district to have his name included in the list or to cause the entry in the list relating to him to be corrected.

Who may apply to be registered or have correction made

(2) Every person so applying shall sign an application (Form 26) in which all the information required by the form shall be sufficiently filled in, either by the applicant personally or by a revising officer at the applicant's request, and before entering the name of the person in the list of voters or before correcting the list, as the case may require, the revising

Application to be entered on list to be signed

officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is entitled to have his name included in the list or to have the list corrected pursuant to his request.

Absence  
through  
sickness, etc.,  
relative or  
employer  
may  
appear

(3) If any person who claims to be entitled to have his name included in the list of voters or to have the entry relating to him therein corrected is unable personally to attend the registration and revising sittings by reason of sickness, disability, or necessary, temporary, unavoidable and *bona fide* absence from the municipality in which the registration area is included, then a relative of such person by blood or marriage or his employer may, if he has a sufficient knowledge of the facts, appear before the revising officer and complete the application (Form 26) to have such person's name included in the list of voters or to have the list corrected, as the case may be.

Evidence to  
be produced  
by relative  
or employer

(4) If the relative by blood or marriage or the employer so appearing substantiates,

- (a) the cause for the non-appearance of the person immediately concerned to be as set out in subsection 3;
- (b) the existence of a relationship by blood or marriage or the relationship of employer and employee; and
- (c) the facts relevant to the qualification, name, address or identity of the person immediately concerned so far as such facts are requisite to cause the name of the person to be included in the list, or to cause the list to be corrected, as the case may be,

the revising officer may act upon the application as if the person immediately concerned had appeared in person before him.

Re-enumeration  
of  
applicants  
in certain  
cases

(5) At any time prior to the sitting of the revising officers in any registration and revising district any voter whose name is omitted from the list as prepared by the enumerators, or any person who has knowledge of the fact that the name or names of any other voter or voters have been so omitted, may so inform the returning officer in writing stating the names and addresses of the voters so omitted.

Idem

(6) The returning officer shall, prior to the last day of the revision, cause an enumeration to be made of all voters of whom such notice has been given, and the enumerators shall visit the addresses and enumerate such voters and any other voters at those addresses whose names have been omitted from the list, and the returning officer shall transmit to the revising officer the names of such voters so enumerated and the revising officer shall, if there is no valid objection, add such names to the list.

(7) The returning officer shall appoint enumerators for the purposes of subsection 6 from among those who have already acted as such for the pending election, or if necessary shall appoint others in the manner provided by section 60. 1951, c. 93, s. 75.

Enumera-  
tors

**75.**—(1) Within four days after the posting up of the urban polling subdivision lists by the enumerators as provided in section 62, any person whose name has been entered on any of the urban polling subdivision lists in the electoral district may file with the proper clerk of the revising officer appointed for the urban polling subdivision a complaint that there has been included in the list as compiled by the enumerators the name or names of persons who should not be entered therein, and such complaint shall be prepared according to Form 27 and shall set out the reason for complaining and shall be accompanied by an affidavit of the complainant (Form 28), and the same shall be filed with such clerk of the proper revising officer not later than the first day appointed for the sittings of the revising officer.

Procedure  
where com-  
plaint made  
for wrong-  
ful entry  
on list

(2) Upon such complaint and affidavit being received by the clerk of the revising officer, he shall forthwith, and not later than the first day of the sittings of the revising officer, transmit, by registered mail addressed to the person objected to at the address mentioned in the list of voters as compiled by the enumerator, a notice (Form 29) requiring such person to appear in person or by representative before the revising officer on a day to be named in the notice to answer the complaint made.

Revising  
officer's  
clerk to  
notify voter  
of com-  
plaint

(3) In the case of any objection or complaint to the inclusion of a name in the list of voters of which notice has been given under subsection 2, the onus of establishing the validity of the objection rests upon the objecting person and shall be discharged either by proper evidence that the name of the person objected to should not be included in the list of voters, or by the production of a post office certificate of the registration of the package containing the notice of objection and by the production of the package itself having upon it a record by the post office indicating that it could not be delivered. 1951, c. 93, s. 76.

Procedure

**76.**—(1) Any person whose name appears in the list of voters for any urban polling subdivision in the electoral district or the registration district for which the revising officer has been appointed may on the first day of the sittings only make oath before the revising officer giving particulars,

Objections  
by persons  
on list to  
names  
appearing  
thereon

(a) of the list upon which his name appears;

- (b) stating that he is qualified to vote in the electoral or registration district; and
- (c) alleging the death, disqualification, or real residence and appearance on another list, of any person on the list for any of the urban polling subdivisions in the registration district for which the revising officer has been appointed.

Notice to  
person  
objected to

(2) The revising officer, upon such oath being made before him (Form 30), shall cause to be transmitted by registered mail addressed to the person objected to at the address mentioned in the list of voters and also at such other address, if any, as may be mentioned in the oath aforesaid, a notice (Form 29) requiring such person to appear in person or by his representative before him or any revising officer who is on duty at such revising office, on a day to be named in the notice, to establish his qualification as a voter, and the revising officer shall transmit, with each copy of the notice, a copy of the oath of the voter making the objection.

Procedure  
dealing with  
objections  
to name  
on list

(3) In the case of any objections made on oath before a revising officer under this section, of which notice has been properly given by a revising officer under subsection 2, the onus of establishing his right to have his name included in the list of voters is upon the person objected to, and if the person does not, during the sittings on the day for which notice of the hearing of the objection has been given, appear before the revising officer, personally or by representative, or, being present or represented, fails to satisfy the revising officer of his right to have his name retained on the list, the revising officer shall strike his name therefrom whether or not the voter by whom the objection was made has appeared before him. 1951, c. 93, s. 77.

Jurisdiction  
of revising  
officer

**77.** At the sittings for revision, the revising officer has jurisdiction to dispose and shall dispose,

- (a) of applications made by persons to have their names included in the lists, or to have the lists corrected;
- (b) of applications by relatives or employers;
- (c) of objections to the addition to the lists of the names of voters enumerated under subsection 6 of section 74;
- (d) of complaints filed under section 75 with any clerk of any revising officer, notice of which has been given to the party objected to as provided in that section; and

- (e) of objections on oath made before a revising officer under section 76 of which a revising officer has given notice as provided in that section. 1951, c. 93, s. 78; 1954, c. 102, s. 13.

**78.** For the due performance of his duty, a revising officer appointed under this Part has all the powers of a judge sitting for the hearing of complaints under Part I. 1951, c. 93, s. 79. Powers of revising officer

**79.** If it appears to the revising officer that the applicant understands the effect of the statements in the application (Form 26) and that the applicant's name should be included in the list or that the amendment thereof which he requests should be made, he shall certify accordingly by signing the application. 1951, c. 93, s. 80. Revising officer to enter name when satisfied applicant is qualified

**80.** If, in the opinion of the revising officer, the statements made by the applicant in his application do not show that the applicant is entitled to have his name included in the list or to have the list amended as requested, he shall advise the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. 1951, c. 93, s. 81. Procedure where application refused

**81.** The name of a person shall not be removed from the enumerators' list by the revising officer unless he is satisfied on oath that due notice of complaint has been given to the person or that the person could not be found and the registered notice could not be delivered. 1951, c. 93, s. 82. Name not to be struck off without notice

**82.** The revising officer shall not remove any name from the enumerators' list or make any other changes therein except upon evidence under oath. 1951, c. 93, s. 83. Evidence required

**83.** During the sittings, each revising officer shall enter in the proper urban polling subdivision list in his registration district the names, addresses and occupations of such voters as are added by him to the list and such other corrections as are made, and shall certify each amendment of the list so made by appending thereto his initials and a note of the date of the amendment. 1951, c. 93, s. 84. Additions and corrections to be entered on the proper list

**84.—(1)** Forthwith after the conclusion of the sittings, the revising officer shall certify the list of each urban polling subdivision as finally revised by him, and shall as soon as possible transmit the list together with a certified statement of changes and additions to the returning officer. Transmission of lists to returning officer

**(2)** The lists as so revised and certified together with the statements of changes and additions are the proper lists to be Lists so revised to be lists for the election

used in preparing the urban polling lists for the election. 1951, c. 93, s. 85.

Representatives of recognized political interests may be present

**85.** The revising officers shall permit to be present in the place of registration and revision not more than two representatives of each recognized and opposed political interest in the electoral district, but no such representative, except with the permission of the revising officer, has any right to take part or intervene in the proceedings. 1951, c. 93, s. 86.

Interpreter may be engaged

**86.** When the language of the applicant is not understood by the revising officer, an interpreter may be sworn and may act; but in the event of inability to secure an interpreter, the application shall, for the time being, be refused. 1951, c. 93, s. 87.

Revising officer a conservator of the peace

**87.** Every revising officer, while sitting as such, has and may exercise the powers of a justice of the peace, and he may appoint, if necessary, constables for the maintenance of order and for the arrest and detention of persons who are guilty of the personation of others, or of attempting to personate others, or who impede or improperly interrupt his proceedings or create a disturbance. 1951, c. 93, s. 88.

Printed copies of statements of changes

**88.—(1)** The returning officer, forthwith upon receipt of the statements of changes and additions from the revising officers, shall cause them to be printed and such printing shall be completed not later than the eighth day before polling day.

Certification of true copies of statement

**(2)** Every printed copy of the statement shall have printed thereon a certificate of the returning officer that such copy is a true copy of the statement as prepared by the revising officer. 1951, c. 93, s. 89.

Printed copies to be furnished candidates

**89.** The returning officer shall furnish twelve printed copies of the statement of changes and additions for each urban polling subdivision to each candidate. 1951, c. 93, s. 90.

Printed lists with statement to be official list

**90.** The printed list together with the statement of changes and additions for the urban polling subdivision as so certified by the returning officer is the official list for the urban polling subdivision to which it relates, but if any material difference between its contents and the contents of the list as finally revised by the revising officer is discovered after the completion of the printing, the returning officer shall furnish a certificate of the error to the deputy returning officer and to each candidate, and the printed list and statement shall for all purposes be taken to have been amended in accordance with the certificate. 1951, c. 93, s. 91.

PROVINCIAL LISTS IN  
RURAL POLLING SUBDIVISIONS

**91.** Every returning officer, forthwith after receipt of a writ of election, shall appoint in writing (Form 31) for each rural polling subdivision in the electoral district one person to be the enumerator of the voters in such subdivision and to prepare a list thereof, and shall require each such person to take the oath (Form 32). 1951, c. 93, s. 92. <sup>Enumerator, appointment</sup>

**92.**—(1) The enumerator of each rural polling subdivision shall prepare a list (Form 24) under headings of names of streets where possible and in order of street numbers in subdivisions where street numbering is in effect, and in alphabetical order in all other subdivisions, of all persons in the polling subdivision who are qualified to vote at the election. 1951, c. 93, s. 94 (1); 1954, c. 102, s. 15 (1). <sup>Preliminary list</sup>

(2) Such list shall be prepared from such information as the enumerator may be able to secure by means of, <sup>Idem</sup>

- (a) a house-to-house canvass;
- (b) reference to the voters' list prepared pursuant to Part I, if any; and
- (c) such other sources as may be available to him. 1951, c. 93, s. 94 (2); 1954, c. 102, s. 15 (2).

**93.**—(1) Every enumerator shall exercise the utmost care in the preparation of the list of electors for the rural polling subdivision for which he has been appointed. <sup>Enumerator to exercise care</sup>

(2) He shall take all necessary precautions to ensure that his list, when complete, contains the name, address and occupation of every person who is qualified as a voter in the polling subdivision and that it does not contain the name of any person who is not so qualified. 1951, c. 93, s. 95. <sup>Idem</sup>

**94.**—(1) The enumerator of each rural polling subdivision, immediately after the completion of the list and not later than four days from the date of his appointment, shall certify such list on oath and deliver it to the returning officer, and shall prepare at least six copies thereof so certified and shall forthwith post up one copy in the office of the returning officer, for public inspection, and the returning officer shall distribute one copy to each candidate. 1951, c. 93, s. 96 (1); 1954, c. 102, s. 16. <sup>Certification and posting up of preliminary list</sup>

(2) The returning officer, forthwith upon receipt of the list from the enumerator shall cause it to be printed and shall furnish twelve printed copies of the list for each rural polling subdivision to each candidate. 1951, c. 93, s. 96 (2). <sup>Printing and distribution of preliminary list</sup>

## GENERAL

Distribution  
of lists to  
candidates

**95.** Any copies of lists or of statements of changes or additions in any list required by this Part to be distributed to the candidates may be distributed to the official agents of the candidates who have been nominated as such at the pending election, if any. 1951, c. 93, s. 105.

Offence by  
enumerator

**96.** Every enumerator who wilfully neglects, omits or refuses to perform any of the duties imposed on him by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of \$200, and in addition forfeits his right to payment for any services already rendered. 1951, c. 93, s. 106.

Replace-  
ment of  
enumerator

**97.** The returning officer may at any time replace any enumerator appointed by him by appointing another enumerator to act in his place and stead and, upon receiving notice in writing from the returning officer of his replacement, the enumerator so replaced shall forthwith deliver to the returning officer his credentials and all papers and materials supplied to him. 1951, c. 93, s. 107.

## REGULATIONS

Regulations

**98.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the forms, notices and other documents to be used for the purposes of this Part;
- (b) respecting the duties of the clerk of the board, the enumerators and all other clerks and officers appointed or acting under this Part;
- (c) respecting the books and other records to be kept of the proceedings of the board, the enumerators and the revising officers;
- (d) fixing the fees to be payable to the board, the enumerators and the revising officers and clerks for services performed, the witness fees and costs, if any, the costs of any premises used for the purpose of registration or revision, and the cost of printing the lists, and any other costs incurred in connection therewith, and prescribing the manner in which and by whom they shall be borne and paid;
- (e) fixing the times in connection with the preparation of any list where no other provision in this Part has been made;



- (f) for giving directions as to any matter in connection with the preparation or revision of lists under this Part that is not expressly provided for therein; and
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1951, c. 93, s. 108.

## SCHEDULE

## FORM 1

*The Voters' Lists Act**Sections 7 (1), 8 (1)*

## FORM OF VOTERS' LIST

Voters' List, 19..... of.....  
(municipality)

## SCHEDULE OF POST OFFICES

1. North Augusta.  
2. Maitland

3. Wright's Corners.  
4. Prescott.

POLLING SUBDIVISION NO. 1, COMPRISING, ETC.:—(*Giving the Limits*)

Mun. El. Only	Name	Condition	Lot or Street Number	Concession Number or Street Name		Post Office Address	Jurors' Col.	If Sep. School Supporter
M.E.	Kelly, Patrick.....	M	1	Spruce St.	Owner	1		S
	Phillips, Frederick	B	3	" "	Tenant	1		
	Murray, Alma.....	MW	5	" "	M.F.N.C.	1		
	Welland, John.....	B	7	" "	Owner	1	J	

(or where council has directed alphabetical arrangement)

M.E.	Anderson, Henry	M	N W ½ 6	3	Owner	1		S
	Andrews, John.....	B	W 14 acr. 8	1	F.S.	4		
	Archer, Mary.....	MW	2	9	M.F.N.C.	4		S
	Burton, Samuel....	W'er	E ½ 17	4	See Subdiv.			
					No.	2		
	Clark, Edith.....	W	W ½ 17	4	Tenant	5		

POLLING SUBDIVISION NO. 2, COMPRISING, ETC.:—(*Giving the Limits*)

(NOTE: In the Column headed "Condition" insert the initial letter or letters "M" (Married); "M.W." (Married Woman); "S" (Spinster); "W" (Widow); "W'er" (Widower); "B" (Bachelor), according to the circumstances.

In the Column headed "Mun. El. Only" insert the letters "M.E." opposite the name of each person who is entitled to vote at municipal elections but not at provincial elections.)

## FORM 2

*The Voters' Lists Act**Section 10 (1)*

## CERTIFICATE TO BE ENDORSED ON THE VOTERS' LIST

I, A. B., Clerk of the.....of....., in the County of....., certify that the within (*or* above) list is a correct list of all persons appearing by the assessment roll to be entitled to vote at provincial and municipal elections in this municipality and of all persons appearing by the assessment roll to be entitled to vote at municipal elections only in this municipality, and that the letters "M.E." have been inserted in the proper column opposite the names of all persons appearing by the assessment roll to be voters at municipal elections only, and I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law.

Dated this.....day of....., 19.....

A. B.,  
Clerk of.....

1954, c. 102, s. 18 (1).

## FORM 3

*The Voters' Lists Act**Section 12*

## CLERK'S NOTICE OF FIRST POSTING OF VOTERS' LIST

Voters' List, 19....., .....of....., County of.....

Notice is hereby given that I have complied with section 9 of *The Voters' Lists Act*, and that I have posted up at my office at....., on the.....day of....., 19....., the list of all persons entitled to vote in the municipality at municipal elections and that such list remains there for inspection.

And I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law, the last day for appeal being the.....day of....., 19.....

Dated this.....day of....., 19.....

Clerk of.....

1951, c. 93, Sched., Form 4.

## FORM 4

*The Voters' Lists Act**Section 13 (5)*AFFIDAVIT IN SUPPORT OF APPLICATION FOR NAME TO BE  
PLACED ON REVISED LIST

I, ....., of the.....of....., in the County  
of....., make oath and say:

1. That I am (*or that*.....*is to the best of my personal knowledge*) a British subject of the full age of twenty-one years, and not a citizen or a subject of any foreign country.

2. That on the.....day of....., 19..... (*Fill in the last day for making complaint to the county judge*), I will have (*or*.....*will have*) resided in Canada for the twelve months next preceding that day and that I am (*or*.....*is*) a resident of this municipality.

3. That I am (*or*.....*is*) entitled to be entered on the voters' list for the.....of.....

4. That I am not (*or that*.....*is not*) disqualified under *The Election Act*, or otherwise by law prohibited from voting at elections for the Legislative Assembly.

Sworn before me at the..... }  
of.....in the County of..... }  
this.....day of....., 19..... }

*A Commissioner, etc.*

1951, c. 93, Sched., Form 5.

## FORM 5

*Sections 14 (1), 16 (1)**The Voters' Lists Act*

## NOTICE OF COMPLAINT OR APPEAL

Polling Subdivision No..... Ward No.....of.....  
(*municipality*)

(*This notice must not apply to the lists for more than one polling subdivision*)

To....., Clerk of the.....for the  
.....of.....

I (*Insert full name—No initials*), a person entered or entitled to be entered on the voters' list in the above-mentioned municipality in the electoral district of....., complain that the persons whose names are set forth in List No. 1, are entitled to be on the voters' list for the above-mentioned polling subdivisions, but are omitted from the list; that the persons whose names are set forth in List No. 2 are incorrectly described in the list; that the persons whose names are set

forth in List No. 3 ought not to have been entered on the voters' list for the above-mentioned polling subdivision; and take notice that I intend to apply to the Revising Officer in respect thereof pursuant to the statute in that behalf.

(Signed).....

Dated this.....day of....., 19.....

### LIST No. 1

(Showing voters omitted from or not entered on the Voters' List)

NAMES OF PERSONS	ADDRESS	CONDITION (Here write letters: "M." meaning Married; "B." meaning Bachelor; "W'er" meaning Widower; "M.W." meaning Married Woman; "S." meaning Spinster; "W." meaning Widow; "S.F." meaning Soldier's Franchise.)
<i>Insert full name and do not use initials.</i>		

### LIST No. 2

(Showing persons whose names are wrongly stated in Voters' List)

NAMES OF PERSONS	ADDRESS AS STATED IN LIST	The Errors in Statement upon Voters' List
<i>Insert name as entered on list.</i>		

### LIST No. 3

(Showing persons whose names ought not to be on Voters' List)

NAMES OF PERSONS	ADDRESS AS STATED IN LIST	Grounds on Which Such Persons' Names Ought Not to be on the Voters' List
<i>Insert name as entered on list.</i>		

*The Voters' Lists Act*

## VOTERS' NOTICE OF COMPLAINT

*(For use by individual complainants)*

Electoral District of.....  
 Complaint as to Voters' List for Polling Subdivision No.....  
 in the.....of.....  
 (municipality)

I,....., a person entered or  
 (full name of complainant)  
 entitled to be entered on a voters' list in the above-mentioned municipality  
 and electoral district, hereby complain that my name has been omitted  
 from the list for the above polling subdivision, and appeal to have it  
 entered thereon.

I hereby state and declare that

- (1) I am a British subject by birth.  
*(If naturalized, cross out "birth", write in "naturalization" and  
 give date of your certificate. Naturalized citizens must bring their  
 certificate of naturalization with them when their appeals are to be  
 heard.)*
- (2) My occupation is.....  
*(In case of women, give occupation and also state whether married,  
 widowed or single.)*
- (3) I have resided in Canada since.....
- (4) I have been living at.....  
*(Give present street address, or lot and concession number.)*  
 since.....  
*(If you have moved within the last five months, give each address at  
 which you have lived in that period and date of moving from each.)*  
 .....  
 .....

- (5) I am over twenty-one years of age.

And take Notice that I intend to apply to the judge in respect thereof,  
 pursuant to the statute in that behalf.

Dated this.....day of....., 19.....

*(Complainant sign here)*

1951, c. 93, Sched., Form 6.

## FORM 6

*The Voters' Lists Act**Section 16 (3)*

## CLERK'S REPORT IN CASE OF APPEALS AND COMPLAINTS TO THE JUDGE

To His Honour the Judge of the County Court of the County of.....

The Clerk of the.....of.....reports that the  
 several persons mentioned in column 1 of the subjoined schedule, and no  
 others, have given to him written notice complaining of errors or omissions  
 in the voters' list for the municipality for 19....., on the grounds mentioned  
 in column 2 of the schedule, and that such notices were received respec-  
 tively at the dates set down in column 3 of the schedule.

Clerk of.....

*Schedule*

1	2	3
NAME OF COMPLAINANT	ERRORS OR OMISSIONS COMPLAINED OF	DATE WHEN NOTICE OF COM- PLAINT RECEIVED BY CLERK

1951, c. 93, Sched., Form 7.

## FORM 7

*The Voters' Lists Act**Section 16 (3)*JUDGE'S ORDER APPOINTING COURT FOR HEARING COMPLAINTS AND  
APPEALS

To....., Clerk of the.....of.....

I appoint the.....of....., 19....., at the  
hour of.....at.....in the said county, for holding a  
court to hear and determine the several complaints of errors and omissions  
in the voters' list for the.....of.....  
for 19.....

I direct that the assessor for the municipality shall attend the sittings  
of the court, and that the assessment roll and the minutes of the Court  
of Revision for the municipality for 19..... be produced thereat.

Dated this.....day of....., 19.....

*Judge C. C.*

1951, c. 93, Sched., Form 8; 1954, c. 102, s. 18 (2).

## FORM 8

*The Voters' Lists Act**Section 16 (3)*NOTICE TO BE POSTED BY CLERK IN HIS OFFICE WITH LIST OF  
COMPLAINTS

Notice is hereby given that a court will be held, pursuant to *The Voters'*  
*Lists Act*, at....., on the.....day of  
....., 19....., at.....o'clock,.....for hearing  
all complaints made against the voters' list for the.....  
of.....for 19....., particulars of which complaints are shown  
in the subjoined schedule.

Dated this.....day of....., 19.....

*Clerk of.....*

*Schedule*

NAME OF PARTY COMPLAINING	NAME OF PERSON IN RESPECT TO WHOM APPEAL WAS MADE	GROUND OF COMPLAINT ALLEGED

1951, c. 93, Sched., Form 9; 1954, c. 102, s. 18 (3).

## FORM 9

*The Voters' Lists Act**Section 16 (3)*

## CLERK'S NOTICE TO PARTY COMPLAINING

You are hereby notified that a Court of Revision of the voters' list, 19....., for the.....of.....will be held by the Judge of the County Court of the County of.....at.....on the.....day of....., 19....., at.....o'clock at which court all complaints will be heard and determined. A list of complaints is posted up in.....; and take notice that the Judge may proceed to hear and determine the complaints whether the parties complaining appear or not.

By order of His Honour the Judge of the County Court of the County of.....

Dated this.....day of....., 19.....

To.....

A person complaining of error in the voters' list.

*Clerk of the Municipality, and  
.....of the Court*

1951, c. 93, Sched., Form 10; 1952, c. 112, s. 3 (1); 1954, c. 102, s. 18 (4).

## FORM 10

*The Voters' Lists Act**Section 16 (3)*

## CLERK'S NOTICE TO PARTY COMPLAINED AGAINST

You are hereby notified that a Court of Revision of the voters' list, 19....., for the.....of.....will be held by the

Judge of the County Court of the County of....., at....., on the.....day of....., 19....., at..... o'clock, and that..... has complained that your name..... is wrongly omitted (or inserted as the case may be) in the voters' list because (*state matter of complaint concisely*). A list of all complaints lodged is posted up in.....; and take notice that the Judge may proceed to hear and determine the complaint whether you appear or not.

By order of His Honour the Judge of the County Court of the County of.....

To.....  
Entered on voters' list.

*Clerk of the Municipality, and  
.....of the Court*

1951, c. 93, Sched., Form 11; 1952, c. 112, s. 3 (2); 1954, c. 102, s. 18 (5).

# FORM 11

## *The Voters' Lists Act*

### *Section 17 (1)*

#### SUBPOENA



ONTARIO:

County of.....  
To WIT:

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To.....Greeting:

We command you, that, all excuses being laid aside, you be and appear in your proper person before our Judge of our County Court of the County of....., at....., on the.....day of....., 19....., at..... o'clock in the.....noon, at a court appointed, and there and then to be held, for hearing complaints of errors in the voters' list for 19..... of the..... of..... in the County of....., and for revision of the voters' list, then and there to testify to all and singular those things that you know in a certain matter (*or matters*) of complaint made and now depending before the Judge, under *The Voters' Lists Act*, where one..... is complainant, and which complaint is to be tried at the court. (*And if the witness is required to produce documents*) that you bring with you and produce at such time and place (*Set out the documents to be produced*). Herein fail not.

Witness, His Honour....., Judge of the Court at....., the.....day of....., in the year of our Lord 19.....

*Clerk*

1951, c. 93, Sched., Form 12.



## FORM 12

*The Voters' Lists Act**Section 20 (1)*—REPORT OF CLERK WHEN APPLYING FOR CERTIFICATE UNDER  
SECTION 20

To the Clerk of the Peace of the County of.....

I,....., Clerk of the.....of.....,  
in the County of....., do hereby certify as follows:

That I did, on the.....day of....., 19.....,  
post up, and for a period of.....days next thereafter did keep posted  
up in a conspicuous place in my office at....., a correct printed  
copy of the voters' list for the.....of.....for  
19....., made in pursuance of *The Voters' Lists Act*, with the certificate  
required by section 10 of that Act endorsed thereon.

That I did also deliver or transmit by post the required number of  
similar printed copies of the list, with my certificate endorsed, to each of  
the persons entitled thereto under section 9 of that Act.

That I did on the.....day of....., 19.....,  
cause to be inserted in the newspaper called the ".....",  
published in.....the notice required by section 12 of that Act.

That no person gave me nor did I receive, within 14 days after I had  
posted up the list in my office, any written notice of complaint or intention  
to apply to the Judge in respect of the list.

And to the best of my knowledge and belief, I have complied with all  
the requirements of that Act, so as to entitle me to apply for certified  
copies under section 20, and I now apply to you to certify the requisite  
number of the copies of the list received by you as being the revised list  
of voters for the municipality of the.....  
of.....for 19.....

Witness my hand this.....day of....., 19.....

Clerk of the.....of.....  
.....P.O.

1951, c. 93, Sched., Form 13; 1954, c. 102, s. 18 (6).

## FORM 13

*The Voters' Lists Act**Section 20 (1)*

## CERTIFICATE WHERE NO COMPLAINTS

A. B., Clerk of the.....of.....having  
certified under his hand that no complaints respecting the list of voters  
for the municipality, for the year 19....., had been received by him within  
14 days after the first posting up of the same; and on application of the  
Clerk:

I,....., Clerk of the Peace of the  
County of.....in pursuance of *The Voters' Lists Act*,

certify that the annexed printed list of voters, being one of the copies received by me from the clerk under section 9 of that Act, is the last revised list of persons entitled to vote at elections to the Assembly as well as at municipal elections, and of persons entitled to vote at municipal elections only in the municipality for the year 19.....

Given under my hand at.....,  
this.....day of....., 19.....

*Clerk of the Peace*

1951, c. 93, Sched., Form 14; 1954, c. 102, s. 18 (7).

---

FORM 14

*The Voters' Lists Act*

*Section 21 (1)*

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE

I, ....., Judge of the County Court of the County of ..... pursuant to section 21 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by me in the list of voters, for the year 19....., received by me from the Clerk of the.....of....., pursuant to that Act.

Dated this.....day of....., 19.....

*Judge*

1951, c. 93, Sched., Form 15.

---

FORM 15

*The Voters' Lists Act*

*Section 21 (3)*

CERTIFICATE OF CLERK OF THE PEACE WHEN  
COMPLAINTS HAVE BEEN MADE

I, ....., Clerk of the Peace of the County of ..... pursuant to section 21 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by His Honour, Judge....., Judge of the County Court of the County of....., in the list of voters for the year 19....., as certified by the Judge.

Dated this.....day of....., 19.....

*Clerk of the Peace*

1951, c. 93, Sched., Form 16; 1954, c. 102, s. 18 (8).

---

FORM 16

*The Voters' Lists Act*

*Section 21 (4)*

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE

I, ....., Judge of the County Court of the County of ..... pursuant to subsection 4 of section 21 of *The Voters' Lists Act*, do hereby

certify that the above (*as the case may be*) is a correct copy of the list of voters for the year 19....., received by me from the clerk of the..... of....., according to my revision and correction thereof, pursuant to that Act.

Dated this.....day of....., 19.....

Judge

1951, c. 93, Sched., Form 17; 1954, c. 102, s. 18 (9).

---

FORM 17

*The Voters' Lists Act*

*Section 35 (1)*

ORDER FOR PAYMENT OF COSTS

In the matter of the voters' list for the.....of....., 19....., on the complaint or appeal of *A. B.*, complaining of the name of *C. D.* being wrongly inserted in the said list (*or, as the case may be, stating in brief the nature of the complaint*).

On the proceedings taken before me I find and adjudge that the name of *C. D.* was rightly inserted in the list (*or was wrongly inserted in the list*), and order that *A. B.* do pay *C. D.* his costs occasioned by the complaint (*or and order that C. D. shall pay A. B. his costs incident to the complaint*) (*or and order that E. F., the assessor of the municipality, do pay A. B. his costs incident to the complaint*) (*or, as the case may be, stating it in brief*), which I fix at the sum of \$.....

Dated this.....day of....., 19.....

Judge

1951, c. 93, Sched., Form 18.

---

FORM 18

*The Voters' Lists Act*

*Section 38*

WRIT OF EXECUTION

In the.....Division Court in the County of.....

Whereas on the.....day of....., His Honour, ..... Judge of the County Court of the County of..... made his order that *C. D.* should pay to *A. B.*.....dollars as and for his costs sustained by him on the trial of a complaint against the voters' lists for the.....of.....in the County, for 19....., (*or as the case may be*) made and prosecuted under *The Voters' Lists Act*, which costs have been fixed and allowed at the said sum. You are hereby required to levy of the goods and chattels of *C. D.*, in the County (not exempt from execution) the said money and your lawful fees, so that you may have the same within 30 days from the date hereof and pay the same over to the Clerk of this Court for *A. B.*

Given under the seal of the Court, this.....day of....., 19.....

Clerk

To

Bailiff of the Court.

1951, c. 93, Sched., Form 19.

## FORM 19

*The Voters' Lists Act**Section 43 (1)*

## APPLICATION TO JUDGE AGAINST DELINQUENT CLERK

Pursuant to section 43 of *The Voters' Lists Act*, I, A. B., Clerk of the Peace of the County of....., (or a person entitled to be entered on the voters' list for the..... of....., for 19.....), hereby inform His Honour the Judge of the County Court of the said County, that C. D., Clerk of the..... of....., in the County, has failed to perform the duties required of him as such Clerk by that Act, in this, that he has not made out the list of voters for 19..... for the municipality, within 30 days after the return of the assessment roll thereof (or has not delivered or transmitted copies of the voters' list for the municipality, for 19....., to..... and..... and..... or to any of them) (or, as the case may be, stating in brief the duty not performed), according to the requirements of the Act; and I apply to you to enforce the performance of the duties aforesaid.

Dated at....., this.....day of....., 19.....

A. B.,

*Clerk of the Peace*

1951, c. 93, Sched., Form 20.

## FORM 20

*The Voters' Lists Act**Section 43 (3)*

## SUMMONS

In the matter of the voters' list for the.....of....., in the County of....., for 19.....

Whereas it appears by the application of A. B., the Clerk of the Peace of the County (or a person entitled to be entered on the list), made to me, in pursuance of *The Voters' Lists Act*, that you have failed to perform certain duties required of you by that Act, in this, that you have not made out the list of voters for 19.....for the municipality, within 30 days after the return of the assessment roll thereof (or as the case may be, following the application); and whereas A. B. has applied to me to enforce the performance of the duties aforesaid;

You are hereby required to appear before me at..... in....., on the.....day of....., 19....., at the hour of....., and produce before me the assessment roll for 19..... for the municipality, and any documents in your custody, power or control, relating to the assessment roll, or to the list aforesaid; and submit yourself for examination on oath.

Dated this.....day of....., 19.....

To C. D.,

Clerk of the.....of.....

*Judge*

1951, c. 93, Sched., Form 21.

## FORM 21

*The Voters' Lists Act**Section 57*

## APPOINTMENT OF ENUMERATOR IN URBAN POLLING SUBDIVISIONS

To (*insert name of enumerator*).  
Whose address is (*insert address*).  
And whose occupation is (*insert occupation*).

Know you that in pursuance of the authority given by section 57 of *The Voters' Lists Act*, I, the undersigned, in my capacity as Returning Officer for the Electoral District of ..... do hereby appoint you to be an enumerator for Polling Subdivision No. .... of the Electoral District, to act as such enumerator in accordance with Part III of *The Voters' Lists Act*, and to perform and have all the duties and powers imposed upon or exercisable by an enumerator under that Act.

Given under my hand this.....day of....., 19.....

.....  
*Returning Officer*

1951, c. 93, Sched., Form 22; 1954, c. 102, s. 18 (10).

## FORM 22

*The Voters' Lists Act**Section 57*

## OATH OF ENUMERATOR IN URBAN POLLING SUBDIVISION

I, the undersigned (*insert name of enumerator*) appointed an enumerator for Polling Subdivision No.....of the Electoral District of....., do solemnly swear (*or affirm*) that I will act faithfully in my capacity of enumerator, without partiality, fear, favour or affection, and in every respect according to law. So help me God.

.....  
*Enumerator*

1951, c. 93, Sched., Form 23; 1954, c. 102, s. 18 (11).

## FORM 23

*The Voters' Lists Act**Section 61 (1)*

## ENUMERATORS' RECORD FORM

The following name will appear on the list of persons entitled to vote at the forthcoming election of a member to the Assembly in Polling Sub-

division No. ....of the Electoral District of.....

Name.....

Address.....

Occupation.....

.....  
*Enumerator*

.....  
*Enumerator*

.....  
*Address*

.....  
*Address*

.....  
*Telephone Number*

.....  
*Telephone Number*

1954, c. 102, s. 18 (12).

### FORM 24

#### *The Voters' Lists Act*

*Sections 61 (1), 62 (1), 92 (1)*

#### VOTERS' LIST FORM FOR USE OF ENUMERATORS

Electoral District.....

Polling Subdivision No.....

Name of Street.....

No.	Name (family or surname first)	Occupation or addition	Residence Street and No.	Remarks
-----	--------------------------------------	------------------------------	--------------------------------	---------

(NOTE: *The list shall be made up in the order of street numbers where there is street numbering in effect and in alphabetical order elsewhere.*)

1951, c. 93, Sched., Form 25.

### FORM 25

#### *The Voters' Lists Act*

*Section 61 (4)*

#### NOTICE OF INABILITY TO OBTAIN INFORMATION FOR PURPOSES OF REGISTRATION

Take notice that an enumerator attended at the premises known as .....between 9 a.m. and 6 p.m. on....., the.....day of....., and between 7 p.m. and 10 p.m. on....., the.....day of....., but was unable to secure all the information necessary to ensure that he has obtained the names of all persons residing therein who may be qualified to vote at the forthcoming election of a member of the Assembly.

Information relating to the sittings of the revising officer at which any complaint that the name of a voter has been omitted from the voters' list

will be heard may be obtained at.....

.....  
*Enumerator*

.....  
*Enumerator*

.....  
*Address*

.....  
*Address*

.....  
*Telephone Number*

.....  
*Telephone Number*

1954, c. 102, s. 18 (13).

FORM 26

*The Voters' Lists Act*

*Sections 74 (2, 3), 79*

APPLICATION FOR REGISTRATION

Electoral District of.....

This application relates to

Surname.....

First name.....

Occupation.....

Address and residence.....

*Statement of Facts*

1. The above-named was resident in this Electoral District at (*set out his address*) at the date of the issue of the writ of election.
2. The said person is a British subject of the full age of 21 years.
3. The said person has been resident in Ontario during the last 12 months next preceding the day of polling.
4. The said person is not disqualified as a voter for any reason.
5. The said person is accordingly entitled to vote at the pending election of a member to serve in the Legislative Assembly, for this Electoral District, and is entitled to be entered on the Voters' List as a qualified voter.

*Declaration and Request of Applicant in Person*

I declare that I am the person above described and that the above statement of facts is correct, and I request that my name be entered in the list of voters for Polling Subdivision No.....in this Electoral District.

Dated this.....day of....., 19.....

.....  
*Signature of Applicant*

*Alternative Declaration and Request of Relative or Employer*

I declare that I am the (*insert "relative" or "employer"*) of the person above described, that I believe the above statement of facts to be correct,

and that the person above described is unable to attend in person for the purpose of making this application by reason of sickness or disability, or by reason of necessary, temporary, unavoidable and *bona fide* absence from the municipality.

I request that the name of the person above described be entered in the list of voters for Polling Subdivision No. .... in this Electoral District.

Dated this.....day of....., 19.....

.....  
*Signature of Employer or Relative*

1951, c. 93, Sched., Form 27.

---

FORM 27

*The Voters' Lists Act*

*Section 75 (1)*

LIST OF COMPLAINTS OF PERSONS WRONGFULLY REGISTERED

Registrations Complained Against

Electoral District.....

Polling Subdivision No.....

Name (family or surname first)	Occupation or addition	Residence Street and No.	Reasons for Complaint
--------------------------------------	------------------------------	--------------------------------	-----------------------------

*And on the last page insert*

Dated this.....day of....., 19.....

.....  
*Signature of Complainant*

1951, c. 93, Sched., Form 28.

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FORM 28

*The Voters' Lists Act*

*Section 75 (1)*

AFFIDAVIT VERIFYING LIST OF COMPLAINTS OF PERSONS  
WRONGFULLY REGISTERED

Electoral District.....

Polling Subdivision No.....

I (insert name of complainant) of the.....of.....  
make oath and say:



1. I have been entered as a voter by the enumerators in Polling Subdivision No. .... for the Electoral District of ....., and my name appears on the list of voters prepared by the enumerator as entitled to vote at the pending election.

2. That there have been included in the list of voters prepared by the enumerator for Polling Subdivision No. .... in the Electoral District of ....., the persons whose names are set out in the attached list of complaints.

3. That I have good reason to believe and do verily believe that the said names should not appear upon the list of voters for Polling Subdivision No. .... in this Electoral District upon grounds which I will produce before the Revising Officer.

Sworn before me at the.....

of.....  
in the County (or District) of..... *Signature of Complainant*  
this.....day of.....

.....  
*A Commissioner, etc.*

1951, c. 93, Sched., Form 29.

FORM 29

*The Voters' Lists Act*

*Sections 75 (2), 76 (2)*

NOTICE TO VOTER OBJECTED TO

Electoral District.....

Polling Subdivision No. ....

To (set out name, address and occupation of voter as in list compiled by the enumerator).

Take notice that a complaint has been filed with me alleging that your name entered upon the list of voters by the enumerator of Polling Subdivision No. .... in the Electoral District of ..... has been wrongly entered thereon, for the following reason (set out grounds of complaint).

If you desire to appear before the Revising Officer to substantiate your right to have your name remain on such list of voters, you must appear before the Revising Officer appointed to revise the list at his sitting held at (insert the date and hour and place of one of the days appointed for the sittings).

If you or your representative do not appear before the Revising Officer and establish before him your right to have your name remain on the said list and answer such complaint, the Revising Officer will proceed to hear under oath the evidence as to the complaint, and if satisfied that your name should not remain on such list, he shall strike the same therefrom.

This notice is given pursuant to section 75 (or 76) of *The Voters' Lists Act*.

Dated at....., this.....day of....., 19.....

.....  
*Clerk to Revising Officer*

1951, c. 93, Sched., Form 30.

## FORM 30

*The Voters' Lists Act**Section 76 (2)*

## AFFIDAVIT AS TO DISQUALIFICATION OF PERSON REGISTERED

Electoral District.....

Polling Subdivision No.....

I (*insert the name of complainant*) of the.....of.....  
make oath and say:

1. I have been entered as a voter by the enumerators in Polling Subdivision No.....for the Electoral District of.....and my name appears on the list of voters prepared by the said enumerators as entitled to vote at the pending election.

2. That there has been included in the list of voters prepared by the enumerators for Polling Subdivision No.....in the Electoral District of.....the name of.....as residing at.....

3. That I have good reason to believe and do verily believe that the said name should not appear upon such list because (*here state reason; see clause c of subsection 1 of section 76*) upon grounds which I will produce before the Revising Officer.

Sworn before me at the.....  
of.....  
in the County (*or District*) of.....  
this.....day of..... *Signature of Complainant*

.....  
*A Commissioner, etc.*

1951, c. 93, Sched., Form 31.

## FORM 31

*The Voters' Lists Act**Section 91*

## APPOINTMENT OF ENUMERATOR IN RURAL POLLING SUBDIVISIONS

To (*insert name of enumerator*).Whose address is (*insert address*).And whose occupation is (*insert occupation*).

Know you that in pursuance of the authority given by section 91 of *The Voters' Lists Act*, I, the undersigned, in my capacity as Returning Officer for the Electoral District of.....do hereby appoint you to be the enumerator for Polling Subdivision No.....of the Electoral District, to act as such enumerator in accordance with Part III of *The Voters' Lists Act*, and to perform and have all the duties and powers imposed upon or exercisable by an enumerator under that Act.

Given under my hand this.....day of....., 19.....

.....  
*Returning Officer*

1951, c. 93, Sched., Form 32.

## FORM 32

*The Voters' Lists Act**Section 91*

## OATH OF ENUMERATOR

I, the undersigned (*insert name of enumerator*) appointed the enumerator for Polling Subdivision No.....of the Electoral District of ....., do solemnly swear (*or affirm*) that I will act faithfully in my capacity of enumerator, without partiality, fear, favour or affection, and in every respect according to law. So help me God.

.....  
*Enumerator*

1951, c. 93, Sched., Form 33.

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## CHAPTER 421

## The Wages Act

**1.** In this Act, "wages" means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1950, c. 415, s. 1.

**2.** Where an assignment of any real or personal property is made for the general benefit of creditors, the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment or within one month before the making thereof, not exceeding three months wages, and such persons rank as ordinary or general creditors for the residue, if any, of their claims. R.S.O. 1950, c. 415, s. 2.

**3.** All persons who, at the time of the seizure by the sheriff or who within one month prior thereto, were in the employment of the execution debtor, and who become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of *The Creditors' Relief Act* are entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months wages, in priority to the claims of the other creditors of the execution debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1950, c. 415, s. 3.

**4.** All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under *The Absconding Debtors Act*, or within one month prior thereto, are entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months wages, in priority to the claims of the other creditors of the debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1950, c. 415, s. 4.

**5.** In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month prior thereto, who is entitled to share in the distri-

bution of the estate, is entitled to his wages, not exceeding three months wages, in priority to the claims of the ordinary or general creditors of the deceased, and such person is entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim. R.S.O. 1950, c. 415, s. 5.

When wages  
to be payable  
on distribu-  
tion of  
estate

**6.—**(1) Wages in respect of which priority is conferred by this Act become due and are payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time the estate was received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

Ordinary  
expenses,  
meaning

(2) Ordinary expenses do not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

Protection  
of assignee,  
etc., paying  
claims for  
wages in  
good faith

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it in the end appears that the estate was insufficient to have justified such payment, if he acted in good faith and had reasonable grounds to believe that the estate would prove sufficient.

Joinder  
of claims

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims. R.S.O. 1950, c. 415, s. 6.

Extent of  
exemption  
from seizure  
or attach-  
ment

**7.—**(1) Seventy per cent of any debt due or accruing due to any mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages is exempt from seizure or attachment, provided that if a creditor of any such mechanic, workman, labourer, servant, clerk or employee, who has initiated proceedings by way of seizure or attachment of the wages of any such mechanic, workman, labourer, servant, clerk or employee, desires to contend that having regard to the nature of the debt and the circumstances of the debtor, it is unreasonable that as much as 70 per cent of such debtor's wages should be exempt, the judge may in any particular case, upon a hearing of the matter, reduce such percentage of exemption, and provided further that this section applies only where the amount of such exemption exceeds

the sum of \$2.50 for each working day represented by the wages seized or attached and that a portion of such debtor's wages not exceeding the sum of \$2.50 for each working day represented by the wages seized or attached is in all cases exempt from seizure or attachment.

(2) Nothing in this section applies to any case where the debt to the creditor has been contracted for board or lodging, or where the debtor is an unmarried person and the judge, upon inquiry, finds that he has no one dependent upon him for support. When no exemption

(3) If the debtor desires to contend that in the circumstances of any particular case, having regard to the size of his family, the wages he is earning and any other matter or thing that the judge may deem proper to take into account, the exemption allowed by this section should be increased, the judge has power to increase and to make an order providing for an increase of exemption that he may consider just and reasonable under all the circumstances. Increase of exemption

(4) Where the creditor intends to apply for a reduction in the amount of the exemption, he shall give notice of the intention to the employer at the time of the service of the notice or other process garnishing or attaching the wages, and if he fails to give the notice, the employer may pay into court so much only of the wages of the debtor as would not be exempt under subsection 1 and may pay the balance of the wages to the debtor. Notice of application for reduction of exemption

(5) Subject to subsection 4, the debtor or creditor without waiting for the regular sittings of the court may apply to the judge upon at least five days notice in writing to the other party or his solicitor for an order fixing the amount of the debtor's exemption, and upon the making of the order, if the employer has paid the whole or any part of the wages into court and the amount so paid in equals or exceeds the amount allowed by way of exemption, such sum shall be forthwith paid out to the debtor, and in case the amount paid in is less than the amount so allowed, the whole amount paid in shall be paid out to the debtor. R.S.O. 1950, c. 415, s. 7. Application to judge to fix exemption

(6) Any provision of any contract hereafter made that provides for the assignment by the debtor to the creditor of a greater proportion of the debtor's wages than is liable to seizure or attachment under this section is invalid. 1959, c. 106, s. 1. Assignment of wages

**8.—**(1) Where a garnishment order has been made against the debtor, he may apply to the judge for an order for the release of the garnishment and for the payment of the judgment by instalments and, if the judge deems it proper in all Release of garnishment on terms

the circumstances of the case, he may make the order, fixing therein the amounts and times of payment, and, so long as the debtor is not in default under the order, no further garnishment of the debtor's wages shall be had in respect of the judgment debt.

Idem

(2) An order under subsection 1 may be made *ex parte*, but the judge may vary it at any time upon the application of the debtor or creditor with at least two days notice in writing to the other party.

Copy to  
judgment  
creditor

(3) Forthwith after an order is made under subsection 1, a copy thereof shall be sent by prepaid mail by the clerk of the court to the judgment creditor or his agent. 1960, c. 128, s. 1.

Attachment  
of wages  
only after  
judgment

**9.** Proceedings to attach any debt due or accruing due to any mechanic, workman, servant, clerk or employee for or in respect of his wages shall be taken only where the claim of the creditor against the debtor is upon a judgment. R.S.O. 1950, c. 415, s. 8.

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## CHAPTER 422

## The Warble Fly Control Act

## 1. In this Act,

Interpre-  
tation

- (a) "cattle owner" means any person owning or keeping one or more head of cattle and includes any person in charge of premises where cattle are kept;
- (b) "Commissioner" means the Live Stock Commissioner;
- (c) "inspector" means an inspector appointed under this Act and includes the chief inspector;
- (d) "Minister" means the Minister of Agriculture;
- (e) "municipality" means a township;
- (f) "regulations" means the regulations made under this Act;
- (g) "treated for warble fly" means treated in accordance with the regulations by the brush method or by the spray method;
- (h) "warble fly" means the insect known as *Hypoderma Bovis* or *Hypoderma Lineatum*. 1952, c. 113, s. 1.

2.—(1) Upon receipt of a petition that bears the signatures of more than two-thirds of the cattle owners in the municipality, the council thereof at its next meeting shall pass a by-law requiring all the cattle within the municipality to be treated for warble fly. 1952, c. 113, s. 2 (1).

Petition  
and by-law

(2) Where a by-law passed under this Act has been in force for a period of at least three consecutive years and the council receives a petition that bears the signatures of at least one-third of the cattle owners in the municipality requesting that the by-law be repealed, the council at its next meeting may repeal the by-law.

Repeal  
of by-law

(3) The clerk of the municipality shall send a certified copy of any by-law passed under subsection 1 or 2 to the Commissioner within seven days after it is passed. 1960, c. 129, s. 1.

Copy to be  
sent to  
Commis-  
sioner

Appoint-  
ment of  
inspectors;  
purchase of  
supplies

3.—(1) Where the council of a municipality has passed a by-law under this Act, the council shall appoint before the 1st day of April in each year one or more inspectors to enforce the by-law, and for the treatment of cattle for warble fly, shall purchase in such amounts as may be required such ingredients as may be designated by the regulations, and may purchase or otherwise acquire such equipment as it deems necessary. 1953, c. 108, s. 1.

Depart-  
mental  
inspectors

(2) The Minister may appoint a chief inspector and one or more inspectors whose duties shall be to carry out the provisions of this Act and the regulations.

Evidence of  
appointment

(3) The production by an inspector of a certificate of his appointment purporting to be signed by the clerk of the municipality or by the Minister, as the case may be, shall be accepted as *prima facie* evidence of his appointment under this Act.

Power to  
enter  
premises

(4) In the performance of his duties under this Act an inspector may at any time between sunrise and sunset enter any land or building other than a dwelling house and may inspect all cattle on the premises for warble fly grubs. 1952, c. 113, s. 3 (2-4).

Duty of  
cattle owners

4.—(1) Where the council of a municipality has passed a by-law under this Act, every cattle owner in the municipality shall treat or make available his cattle for treatment for warble fly in accordance with the regulations, and make available for inspection any cattle on his premises. 1952, c. 113, s. 4 (1).

Power of  
inspectors  
to treat  
for warble  
fly

(2) Where an inspector on or after the 18th day of April in any year finds upon inspection that a cattle owner has not treated his cattle for warble fly, or that treatment for warble fly by a cattle owner has not been effective in destroying warble fly grubs, the inspector may treat the cattle or cause the cattle to be treated for warble fly. 1952, c. 113, s. 4 (2); 1955, c. 92, s. 2.

Cost of  
treatment  
by inspector

(3) Every cattle owner who does not treat his cattle for warble fly is liable for the cost of such treatment by the inspector, and the cost thereof is payable on demand and is recoverable in any court of competent jurisdiction.

Payment to  
inspector

(4) The council of a municipality or the Minister, as the case may be, may authorize an inspector to accept payment from a cattle owner for the cost of treatment of his cattle and to give a receipt therefor. 1952, c. 113, s. 4 (3, 4).

Bringing  
cattle into  
municipi-  
pality

5. Where a cattle owner brings or receives cattle into a municipality during the period within which treatments for warble fly are required in any year, production of a certificate

of treatment of the cattle for warble fly issued by any inspector shall be accepted as evidence of treatment. 1952, c. 113, s. 5.

**6.** Every cattle owner who fails to comply with this Act <sup>Offences</sup> or the regulations or any by-law passed under this Act, and every person who hinders or obstructs an inspector in the course of his duties or refuses to permit an inspector to carry out his duties under this Act or the regulations or any by-law passed under this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$50 for a first offence, and to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days for any subsequent offence. 1955, c. 92, s. 4.

**7.** The Lieutenant Governor in Council may make regu- <sup>Regulations</sup>lations,

- (a) defining the brush method and the spray method of treatment for warble fly;
- (b) designating the ingredients to be used and the strength thereof and prescribing the number of treatments that shall be given in a year and the times at which the treatments shall be given;
- (c) designating classes of cattle and exempting such classes from the provisions of the by-laws passed under this Act or a predecessor of this Act;
- (d) prescribing the methods by which cattle shall be made available for inspection and treatment for warble fly;
- (e) providing for the instruction of inspectors and prescribing their duties;
- (f) prescribing the form of inspectors' certificates;
- (g) providing for the making of grants by the Minister out of such moneys as may be appropriated therefor by the Legislature so as to reimburse any municipality to such extent as is designated for any expense it has been put to under this Act;
- (h) respecting the control of warble fly in unorganized territory and providing for the payment of the cost thereof;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 113, s. 8; 1953, c. 108, s. 2; 1955, c. 92, s. 5.



## CHAPTER 423

## The Warehousemen's Lien Act

## 1. In this Act,

Interpre-  
tation

- (a) "charges" has the meaning assigned to it in section 2;
- (b) "goods" includes all chattels personal other than things in action and money;
- (c) "warehouseman" means a person who receives goods for storage for reward. R.S.O. 1950, c. 417, s. 1.

2.—(1) Subject to section 3, every warehouseman has <sup>Lien</sup> a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

(2) The lien is for the amount of the warehouseman's <sup>Amount of  
lien</sup> charges, that is to say,

- (a) all lawful charges for storage and preservation of the goods; and
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperage, and other expenses in relation to the goods; and
- (c) all reasonable charges for any notice required to be given under this Act and *The Warehouse Receipts Act* and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien. R.S.O. 1950, c. 417, s. 2.

3.—(1) Where the goods on which a lien exists were <sup>Notice of  
lien when  
goods in  
hands of  
agent, etc.</sup> deposited not by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman, within two months after the date of the deposit, shall give notice of the lien,

- (a) to the owner of the goods, including the person in whom the right of property therein is vested where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is filed under *The Conditional Sales Act* at <sup>R.S.O. 1960,  
c. 61</sup> the date of deposit; and

R.S.O. 1960,  
c. 34

- (b) to the grantee of the goods under any bill of sale or chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act* at that date.

Form of  
notice

- (2) The notice shall be in writing and shall contain,
  - (a) a brief description of the goods; and
  - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
  - (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Act.

Failure to  
give notice

- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods. R.S.O. 1950, c. 417, s. 3.

Sale by  
public  
auction

4.—(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section, any goods upon which he has a lien for charges that have become due.

Notice of  
sale

- (2) The warehouseman shall give written notice of his intention to sell,
  - (a) to the person liable as debtor for the charges for which the lien exists; and
  - (b) to the owner of the goods, including the person in whom the right of property therein is vested, where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is filed under *The Conditional Sales Act* at the date of deposit of the goods; and
  - (c) to the grantee of the goods under any bill of sale or chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act* at that date; and
  - (d) to any other person known by the warehouseman to have or claim an interest in the goods.

Form of  
notice

- (3) The notice shall contain,
  - (a) a brief description of the goods; and
  - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit

with the warehouseman, and the name of the person by whom they were deposited; and

- (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice; and
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and
- (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

(4) Where the charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the goods to be sold and stating the name of the person liable as debtor for the charges for which the lien exists and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper published in Ontario and circulating in the locality where the sale is to be held, and the sale shall be held not less than fourteen days from the date of the first publication of the advertisement. Advertisement of sale  
R.S.O. 1950, c. 417, s. 4.

**5.** Where a notice of lien under the provisions of section 3, Substantial compliance with requirements or a notice of intention to sell under the provisions of section 4 has been given, but such provisions have not been strictly complied with, if the court or a judge before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable for the lien or sale to be void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. R.S.O. 1950, c. 417, s. 5.

**6.—(1)** The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouseman shall when paying over the surplus deliver to the person to whom he pays it a statement of account showing how the amount has been computed. Application of proceeds of sale

(2) If the surplus is not demanded by the person entitled thereto within ten days after the sale, or if there are different When surplus to be paid into court

claimants or the rights thereto are uncertain, the warehouseman shall pay the surplus into the Supreme Court upon the order of a judge, and the order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

Statement of  
account to  
be filed

(3) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed. R.S.O. 1950, c. 417, s. 6.

Discharge  
of lien

7.—(1) At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving the notices, publishing the advertisement and preparing for the sale up to the time of the payment.

Disposition  
of goods

(2) The warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, otherwise the warehouseman shall retain possession of the goods according to the terms of the contract of deposit. R.S.O. 1950, c. 417, s. 7.

Notices,  
how given

8. Where by this Act any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by sending it by registered mail to his last known address. R.S.O. 1950, c. 417, s. 8.

Contract  
not affected

9. Nothing in this Act shall be deemed to affect the terms of the contract between the owner or bailor and the warehouseman. R.S.O. 1950, c. 417, s. 9.

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## CHAPTER 424

**The Warehouse Receipts Act****1. In this Act,**Interpre-  
tation

- (a) "action" includes counterclaim and set-off;
- (b) "fungible goods" means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit;
- (c) "goods" includes all chattels personal other than things in action and money;
- (d) "holder", as applied to a negotiable receipt, means a person who has possession of the receipt and a right of property therein, and, as applied to a non-negotiable receipt, means a person named therein as the person to whom the goods are to be delivered or his transferee;
- (e) "negotiable receipt" means a receipt in which it is stated that the goods therein specified will be delivered to bearer or to the order of a named person;
- (f) "non-negotiable receipt" means a receipt in which it is stated that the goods therein specified will be delivered to the holder thereof;
- (g) "purchaser" includes a mortgagee and pledgee;
- (h) "receipt" means a warehouse receipt;
- (i) "to purchase" includes to take as mortgagee or as pledgee;
- (j) "warehouse receipt" means an acknowledgment in writing by a warehouseman of the receipt for storage of goods not his own;
- (k) "warehouseman" means a person who receives goods for storage for reward. R.S.O. 1950, c. 418, s. 1.

**2.—(1) A receipt shall contain,**Form of  
receipts

- (a) the address of the warehouse or other place where the goods are stored;
- (b) the name of the person by whom or on whose behalf the goods are deposited;

- (c) the date of issue of the receipt;
- (d) a statement either,
  - (i) that the goods received will be delivered to the holder thereof, or
  - (ii) that the goods will be delivered to bearer or to the order of a named person;
- (e) the rate of storage charges;
- (f) a description of the goods or of the packages containing them;
- (g) the signature of the warehouseman or his authorized agent; and
- (h) a statement of the amount of any advance made and of any liability incurred for which the warehouseman claims a lien.

Omission of  
particulars

(2) Where a warehouseman omits from a negotiable receipt any of the particulars set forth in subsection 1, he is liable for damage caused by the omission.

Idem

(3) No receipt shall by reason of the omission of any of the particulars set forth in subsection 1 be deemed not to be a warehouse receipt.

Insertions

(4) A warehouseman may insert in a receipt issued by him any other term or condition that,

- (a) is not contrary to any provision of this Act; and
- (b) does not impair his obligation to exercise such care and diligence in regard to the goods as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances.

Contract  
constituted

(5) Subject to this Act, a warehouse receipt issued by a warehouseman, when delivered to the owner or bailor of the goods or mailed to him at his address last known to the warehouseman, constitutes the contract between the owner or bailor and the warehouseman; provided that the owner or bailor may within twenty days after such delivery or mailing notify the warehouseman in writing that he does not accept such contract and thereupon he shall remove the goods deposited subject to the warehouseman's lien for charges and if such notice is not given then the warehouse receipt so delivered or mailed constitutes the contract. R.S.O. 1950, c. 418, s. 2.

Negotiable  
receipts

**3.** Words in a negotiable receipt limiting its negotiability are void. R.S.O. 1950, c. 418, s. 3.

4.—(1) No more than one receipt shall be issued in respect of the same goods except in case of a lost or destroyed receipt, in which case the new receipt, if one is given, shall bear the same date as the original, and shall be plainly marked on its face “duplicate”. <sup>Marking of duplicate receipts</sup>

(2) A warehouseman is liable for all damage caused by his failure to observe the provisions of subsection 1 to any person who purchases the subsequent receipt for valuable consideration, believing it to be an original, even though the purchase is after the delivery of the goods by the warehouseman to the holder of the original receipt. <sup>Liability when not so marked</sup>

(3) A receipt upon the face of which the word “duplicate” is plainly marked is a representation and warranty by the warehouseman that it is an accurate copy of a receipt properly issued and uncanceled at the date of the issue of the duplicate. <sup>Effect of duplicate receipts</sup>  
R.S.O. 1950, c. 418, s. 4.

5.—(1) A warehouseman who issues a non-negotiable receipt shall cause to be plainly marked upon its face the words “non-negotiable” or “not negotiable”. <sup>Marking of non-negotiable receipts</sup>

(2) Where a warehouseman fails to comply with subsection 1, a holder of the receipt who purchases it for valuable consideration believing it to be negotiable may, at his option, treat the receipt as vesting in him all rights attaching to a negotiable receipt and imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable, and the warehouseman is liable accordingly. R.S.O. 1950, c. 418, s. 5. <sup>Failure to mark</sup>

6.—(1) A warehouseman in the absence of lawful excuse shall deliver the goods referred to therein, <sup>Duty to deliver</sup>

- (a) in the case of a negotiable receipt, to the bearer thereof upon demand made by the bearer and upon the bearer,
  - (i) satisfying the warehouseman's lien,
  - (ii) surrendering the receipt with such endorsements as are necessary for the negotiation of the receipt, and
  - (iii) acknowledging in writing the delivery of the goods; and
- (b) in the case of a non-negotiable receipt, to the holder thereof upon the holder,
  - (i) satisfying the warehouseman's lien, and
  - (ii) acknowledging in writing the delivery of the goods.

Failure to deliver

(2) Where a warehouseman refuses or fails to deliver the goods in compliance with subsection 1, the burden is upon the warehouseman to establish the existence of a lawful excuse for his refusal or failure. R.S.O. 1950, c. 418, s. 6.

Delivery on presentation of a negotiable receipt

7. Where a person is in possession of a negotiable receipt that has been duly endorsed to him or endorsed in blank, or by the terms of which the goods are deliverable to him or his order or to bearer, if delivery is made in good faith and without notice of any defect in the title of that person, the warehouseman is justified in delivering the goods to that person. R.S.O. 1950, c. 418, s. 7.

Negotiable receipts must be cancelled on delivery of goods

8.—(1) Except as provided in section 18, where a warehouseman delivers goods for which he has issued a negotiable receipt and fails to take up and cancel the receipt, he is liable, for failure to deliver the goods, to anyone who purchases the receipt in good faith and for valuable consideration, whether he acquired title to the receipt before or after delivery of the goods by the warehouseman.

Negotiable receipts to be marked on delivery of part of goods

(2) Except as provided in section 18, where a warehouseman delivers part of the goods for which he has issued a negotiable receipt and fails either to take up and cancel the receipt, or to place plainly upon it a statement of what goods or packages have been delivered, he is liable, for failure to deliver all the goods specified in the receipt, to anyone who purchases the receipt in good faith and for valuable consideration, whether the purchaser acquired title to the receipt before or after the delivery of any portion of the goods. R.S.O. 1950, c. 418, s. 8.

Lost or destroyed receipts

9. Where a negotiable receipt has been lost or destroyed, a judge of the Supreme Court, upon application after notice to the warehouseman by the person lawfully entitled to possession of the goods, may upon satisfactory proof of such loss or destruction order the delivery of the goods upon the giving of a bond with sufficient sureties to be approved in accordance with the practice of the court to indemnify the warehouseman against any liability, cost or expense he may be under or be put to by reason of the original receipt remaining outstanding, and the warehouseman is entitled to his costs of the application. R.S.O. 1950, c. 418, s. 9.

Warehouseman has reasonable time to determine validity of claims

10. Where a warehouseman has information that a person other than the holder of a receipt claims to be the owner of or entitled to the goods, he may refuse to deliver the goods until he has had a reasonable time, not exceeding ten days, to ascertain the validity of the adverse claim or to commence interpleader proceedings. R.S.O. 1950, c. 418, s. 10.

**11.** A negotiable receipt is, in the hands of a holder who has purchased it for valuable consideration, conclusive evidence of the receipt by the warehouseman of the goods therein described as against the warehouseman and any person signing the same on his behalf, notwithstanding that the goods or some part thereof may not have been so received unless the holder of the negotiable receipt has actual notice at the time of receiving the same, that the goods have not in fact been received. R.S.O. 1950, c. 418, s. 11.

Conclusive-  
ness of  
negotiable  
receipt

- 12.** Where goods are described in a receipt merely by,
- (a) a statement of certain marks or labels on the goods or on the packages containing them;
  - (b) a statement that the goods are said by the depositor to be goods of a certain kind;
  - (c) a statement that the packages containing the goods are said by the depositor to contain goods of a certain kind; or
  - (d) a statement of import similar to that of clause a, b or c,

Description  
of goods in  
receipt

the statement does not impose any liability on the warehouseman in respect of the nature, kind or quality of the goods, but shall be deemed to be a representation by the warehouseman either that the marks or labels were in fact on the goods or packages, or that the goods were in fact described by the depositor as stated, or that the packages containing the goods were in fact described by the depositor as containing goods of a certain kind, as the case may be. R.S.O. 1950, c. 418, s. 12.

**13.** A warehouseman is liable for loss of or injury to goods caused by his failure to exercise such care and diligence in regard to them as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances. R.S.O. 1950, c. 418, s. 13.

Liability for  
care of  
goods

**14.** Where authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade, and in that case the holders of the receipts for the mingled goods own the entire mass in common, and each holder is entitled to such proportion thereof as the quantity shown by his receipt to have been deposited bears to the whole. R.S.O. 1950, c. 418, s. 14.

Co-mingled  
goods and  
warehouse-  
man's  
liability  
therefor

**15.** Where goods are delivered to a warehouseman by the owner or person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner and a negotiable receipt is issued for them, they cannot thereafter

Attachment  
or levy upon  
goods for  
which a  
negotiable  
receipt has  
been issued

while in the possession of the warehouseman, be levied under an execution, unless the receipt is first surrendered to the warehouseman. R.S.O. 1950, c. 418, s. 15.

Negotiable  
receipt must  
state charges  
for which  
lien is  
claimed

**16.** Where a negotiable receipt is issued for goods, the warehouseman has no lien on the goods, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. R.S.O. 1950, c. 418, s. 16.

Perishable  
and  
hazardous  
goods

**17.**—(1) Where goods are of a perishable nature or by keeping will deteriorate greatly in value or injure other property, the warehouseman may give such notice as is reasonable and possible under the circumstances to the holder of the receipt for the goods, if the name and address of the holder is known to the warehouseman, or if not known to him, then to the depositor, requiring him to satisfy the lien upon the goods and to remove them from the warehouse, and on the failure of such person to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at public or private sale without advertising.

Giving of  
notice

(2) The notice referred to in subsection 1 may be given by sending it by registered mail addressed to the person to whom it is to be given at the person's last known place of address and the notice shall be deemed to be given on the day following the mailing.

Disposal  
of goods

(3) If the warehouseman after a reasonable effort is unable to sell the goods, he may dispose of them in any manner he may think fit, and does not incur liability by reason thereof.

Proceeds  
of sale

(4) The warehouseman shall satisfy his lien from the proceeds of any sale made pursuant to this section, and shall hold the balance in trust for the holder of the receipt. R.S.O. 1950, c. 418, s. 17.

Effect of  
sale

**18.** Where goods have been lawfully sold to satisfy a warehouseman's lien or have been lawfully sold or disposed of pursuant to section 17, the warehouseman is not liable for failure to deliver the goods to the holder of the receipt. R.S.O. 1950, c. 418, s. 18.

Negotiation  
of negotiable  
receipts

**19.**—(1) A negotiable receipt may be negotiated by delivery,

(a) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the bearer; or

- (b) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the order of a named person and that person or a subsequent endorsee has endorsed it in blank or to bearer.

(2) Where by the terms of a negotiable receipt the goods <sup>Idem</sup> are deliverable to bearer, or where a negotiable receipt has been endorsed in blank or to bearer, the receipt may be negotiated by the bearer endorsing the same to a named person, and in that case the receipt shall thereafter be negotiated by the endorsement of the endorsee or a subsequent endorsee or by delivery if it is again endorsed in blank or to bearer.

(3) Where by the terms of a negotiable receipt the goods <sup>Idem</sup> are deliverable to the order of a named person, the receipt may be negotiated by the endorsement of that person.

(4) An endorsement pursuant to subsection 3 may be in blank, to bearer or to a named person, and if the endorsement is to a named person, the receipt may be again negotiated by endorsement in blank, to bearer or to another named person, and subsequent negotiation may be made in like manner. R.S.O. 1950, c. 418, s. 19.

**20.** The goods covered by a non-negotiable receipt may be <sup>Transfer of receipts</sup> transferred by the holder by delivery to a purchaser or donee of the goods of a transfer in writing executed by the holder, but the transfer does not affect or bind the warehouseman until he is notified in writing thereof. R.S.O. 1950, c. 418, s. 20.

**21.—**(1) A person to whom the goods covered by a non-negotiable receipt are transferred acquires, as against the transferor, <sup>Rights of person to whom a receipt has been transferred</sup>

- (a) the title to the goods; and  
(b) the right to deposit with the warehouseman the transfer or duplicate thereof or to give notice in writing to the warehouseman of the transfer.

(2) The transferee acquires the benefit of the obligation of <sup>Idem</sup> the warehouseman to hold possession of the goods for him according to the terms of the receipt upon,

- (a) deposit of the transfer of the goods; or  
(b) giving notice in writing of the transfer and upon the warehouseman having a reasonable opportunity of verifying the transfer. R.S.O. 1950, c. 418, s. 21.

**22.** A person to whom a negotiable receipt is duly negotiated acquires, <sup>Rights of person to whom a receipt has been negotiated</sup>

- (a) such title to the goods as the person negotiating the receipt to him had or had ability to transfer to a

purchaser in good faith for valuable consideration and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of receipt had or had ability to transfer to a purchaser in good faith for valuable consideration; and

- (b) the benefit of the obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him. R.S.O. 1950, c. 418, s. 22.

Transfer of negotiable receipt without endorsement

**23.** Where a negotiable receipt is transferred for valuable consideration by delivery and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears and the negotiation shall take effect as of the time when the endorsement is made. R.S.O. 1950, c. 418, s. 23.

Warranties on sale of receipt

**24.** A person who for valuable consideration negotiates or transfers a receipt by endorsement or delivery, including one who assigns for valuable consideration a claim secured by a receipt, unless a contrary intention appears, warrants,

- (a) that the receipt is genuine;
- (b) that he has a legal-right to negotiate or transfer it;
- (c) that he has no knowledge of any fact that would impair the validity of the receipt; and
- (d) that he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby. R.S.O. 1950, c. 418, s. 24.

Endorser not a guarantor

**25.** The endorsement of a receipt does not make the endorser liable for any failure on the part of the warehouseman or previous endorsers of the receipt to fulfil their respective obligations. R.S.O. 1950, c. 418, s. 25.

When negotiation not impaired by fraud, mistake or duress

**26.** The validity of the negotiation of a receipt is not impaired by the fact that the negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to such person, if the person to whom the receipt was



negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor without notice of the breach of duty, or fraud, mistake or duress. R.S.O. 1950, c. 418, s. 26.

**27.** Where a person having sold, mortgaged or pledged goods that are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged or pledged a negotiable receipt representing goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale or other disposition thereof to any person receiving the same in good faith, for valuable consideration and without notice of the previous sale, mortgage or pledge, has the same effect as if a previous purchaser of the goods or receipt had expressly authorized the subsequent negotiation. R.S.O. 1950, c. 418, s. 27. Subsequent negotiation

**28.** Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu defeats the rights of a purchaser for value in good faith to whom the receipt has been negotiated, whether the negotiation is prior or subsequent to the notification to the warehouseman who issued the receipt of the seller's claim to a lien or right of stoppage in transitu and the warehouseman shall not deliver the goods to an unpaid seller unless the receipt is first surrendered for cancellation. R.S.O. 1950, c. 418, s. 28. Negotiation defeats vendor's lien

**29.** Nothing herein shall be deemed to include or apply to the manager or operator of a grain elevator as "Manager" and "Operator" are defined by the *Canada Grain Act* or any railway or express company within the jurisdiction of the Parliament of Canada. R.S.O. 1950, c. 418, s. 29. Where Act not to apply R.S.C. 1952, c. 25

**30.** This Act does not apply to receipts made and delivered before the 1st day of June, 1946. R.S.O. 1950, c. 418, s. 30. Application of Act

**31.** This Act does not apply to the storage of furs, garments and home furnishings, other than furniture, that are ordinarily used by the person placing them in storage or a member of his family or household. R.S.O. 1950, c. 418, s. 31; 1954, c. 103, s. 1. Application to storage of furs, etc., to be proclaimed

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## CHAPTER 425

## The War Veterans Burial Act

**1.** In the event of the death of any person who was an indigent person and who was a member of Her Majesty's naval, military or air forces in active service during any war, and his burial was provided by and paid for from the Last Post Fund, the municipality in which he resided at the time of his death shall pay the expenses of such burial, but not exceeding the sum of \$15, to the Fund upon proof of such burial and demand for payment made by a properly accredited officer of the Fund. R.S.O. 1950, c. 419, s. 1.

Liability of municipality for burial of veterans

**2.** In the event of the death of any workman who was a member of Her Majesty's naval, military or air forces in active service during any war, and the burial was provided by and paid for from the Last Post Fund, the necessary expenses of the burial payable under clause *a* of subsection 1 of section 37 of *The Workmen's Compensation Act*, not exceeding \$100, shall be paid to the Fund. R.S.O. 1950, c. 419, s. 2.

In case of workman, compensation payable to Last Post Fund

R.S.O. 1960, c. 437

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## CHAPTER 426

**The Water Powers Regulation Act****1. In this Act,**Interpre-  
tation

- (a) "inspector" means a commission, public body or person designated by the Lieutenant Governor in Council to act as inspector under this Act, and includes the officers, agents and servants of the inspector employed and acting under the authority and direction of such inspector;
- (b) "owner of a water power" means every municipal corporation, company, firm or individual being or claiming to be the owner, lessee, licensee, occupant, tenant or assignee of a right to use any of the waters of Ontario for the purpose of generating hydraulic, electrical or pneumatic power or energy under any grant, lease or licence from the Crown, or any person, or under contract with, or franchise from any public body representing the Crown or the Province of Ontario or under the general law or any special Act of the Legislature or otherwise;
- (c) "power" means hydraulic, electrical or pneumatic power or energy;
- (d) "regulations" means the regulations made under this Act;
- (e) "works" means every dam, wing dam, forebay, gate, rack, canal, conduit, pipe, aqueduct, penstock, tunnel and every other work that has been or may be constructed or used for or in connection with the control or diversion of water and the conveying of it to a power house or other place at which power may be generated, and includes all buildings, structures, plant, machinery, appliances and other works and things now or hereafter used for or appurtenant to the production and generation of power. R.S.O. 1950, c. 420, s. 1.

**2.** It is the duty of every owner of a water power to ensure as far as possible the economical and efficient use of the water used by him. R.S.O. 1950, c. 420, s. 2.

Duty of  
owner as  
to use of  
water

Appoint-  
ment and  
powers of  
inspectors

**3.** The Lieutenant Governor in Council may appoint an inspector or inspectors who, in addition to the powers hereinafter mentioned, when required by the Lieutenant Governor in Council so to do, may,

- (a) at all reasonable times enter upon any works and examine and inspect the works;
- (b) take such measurements and tests as may be necessary from time to time in order to determine or to fix, as the case may be, in respect of the owner of any water power,
  - (i) the quantity of water used, permitted to be used or available for use,
  - (ii) operating head and head losses,
  - (iii) electrical and hydraulic efficiency of main or auxiliary machinery or of any other portion of the works, or of the works as a whole,
  - (iv) the amount of power developed, permitted to be developed or available for development,
  - (v) in terms of cubic feet per second, the amount of water that it is necessary to use in order to develop or generate any amount of horsepower or to exercise any water rights for any purpose;
- (c) require the production of books, records, charts, readings, maps, plans, load curves and all other documents and records pertaining to the matters to be investigated, inquired into or determined under this Act;
- (d) if it appears to him that the water permitted to be used is not being utilized with a proper degree of efficiency or economy, or that the works or any part of the works are so constructed, or are of such a type, or have so depreciated that the water cannot be used with a proper degree of efficiency or economy, after giving the interested parties a reasonable opportunity to be heard, order the water to be used, or the machinery or the works or any part of them, to be replaced or removed, altered or reconstructed, as the case may be, in such manner or to such an extent as may be necessary to secure the proper degree of efficient and economical use of the water; and

- (e) if any order so made is not carried out within a reasonable time, enter upon the works and, at the expense of the owner of a water power, shut off or reduce the supply of water or close the works or any part thereof in such a manner as to prevent further use until such order has been obeyed. R.S.O. 1950, c. 420, s. 3.

4.—(1) Where an order made by the inspector calls for alterations, repairs or improvements in the works, there may be an appeal from the order of the inspector to the Lieutenant Governor in Council, and the Lieutenant Governor in Council may make such order in the premises as may be deemed meet, which order is final.

(2) Upon such appeal, if the Lieutenant Governor in Council is of the opinion that the additions, alterations or improvements required to be made in the works will be of material public advantage by reason of the more efficient or economical use of the water and that the owner of the water power will not presently receive a corresponding commercial advantage from such alterations or improvements, the Lieutenant Governor in Council may direct a reference to determine what compensation, if any, should be made to the owner of the water power by reason of his being compelled to make such additions, alterations or improvements; and upon such reference all the circumstances shall be taken into account and if the referee is of the opinion that the owner is entitled to compensation, the referee may fix the amount thereof at such sum as he may deem just and reasonable, and upon the owner carrying out the order of the inspector or of the Lieutenant Governor in Council, the amount so awarded is payable to the owner in the same manner as a judgment recovered against the Crown in any court in Ontario. R.S.O. 1950, c. 420, s. 4.

5. It is the duty of the owner of a water power, subject to the right of appeal hereinbefore given, to obey at all times the orders of the inspector and to afford every facility for carrying out this Act and the regulations, and every owner of a water power who neglects or refuses to carry out any such order or who obstructs or hinders or delays the inspector or refuses to furnish him with such information and records as he may require, is liable to a penalty of not less than \$300 and not more than \$2,000, and each and every day on which such offence is committed or continued shall be deemed to create a separate offence. R.S.O. 1950, c. 420, s. 5.

6.—(1) Where an inspector appointed under section 3 has been directed or required by the Lieutenant Governor in Council to exercise any of the powers or to perform any of the

duties set out in clauses *a* to *e* of that section, and the owner of the water power, or any officer, agent or servant of the owner of a water power, hinders, delays or obstructs the inspector in the performance of any such duty, or refuses to permit the inspector to enter upon the premises of the owner of the water power, or to carry out or exercise any of such powers and duties, the inspector may apply to the judge of the county or district court, or to a judge of the Supreme Court, in a summary manner, for an order directing the owner of the water power, his officers, agents or servants, to afford such facilities for inspection as may be necessary for carrying out this Act and the regulations, and require him to obey the orders of the inspector on that behalf, and to admit the inspector to the premises of the owner of the water power, and to cease from such obstruction, hindrance or delay, and to furnish the inspector with such information and records as he may require in order to comply with the direction or requirements of the Lieutenant Governor in Council.

Order of  
Judge

(2) Upon such application the judge may make such order as he deems requisite in order to secure compliance with this Act and the regulations and the performance by the inspector of his duties, and such order is final and is not subject to appeal.

Application  
of  
R.S.O. 1960,  
c. 196

(3) *The Judges' Orders Enforcement Act* applies to every application and order made under this section. R.S.O. 1950, c. 420, s. 6.

Fixing  
quantity of  
water to be  
taken in  
exercise  
of rights

7. Where any lease, licence, order in council or other instrument or any general or special statutory provision confers or purports to confer the right to develop or generate power measured expressly or impliedly in horsepower, or where any such instrument or provision confers or purports to confer a right of diversion or use of water defined wholly or in part by the character, location or dimensions of works, the inspector may fix in terms of cubic feet per second the amount of water that it is necessary to use in order to develop or generate such power or to exercise such right, having regard to the location of the works and to all the circumstances of the case and to the degree of efficiency that the owner of the water power should be required to maintain in the premises. R.S.O. 1950, c. 420, s. 7.

Submission  
and  
approval  
of plans

8. Every owner of a water power, before proceeding with the construction of any works or any alteration or extension of existing works or with the purchase or installation of new works, shall submit to an inspector plans and specifications showing the details of the proposed construction, alteration or extension or of the new works proposed to be purchased or installed, and he shall not proceed therewith or let contracts



therefor until such plans and specifications have been approved by the inspector. R.S.O. 1950, c. 420, s. 8.

**9.—**(1) Where the rights of the owner of a water power to use water for the purpose of generating power do not appear to be expressly or impliedly limited by any stipulation as to the quantity of water to be used or as to the amount of horsepower that may be generated or otherwise, and the Lieutenant Governor in Council deems it desirable in the public interest that such rights should be specifically limited and defined, he may direct the inspector to inquire and report,

Limitation  
and defini-  
tion of  
rights by  
Lieutenant  
Governor  
in Council

- (a) as to the amount of power that the owner of a water power is authorized to generate under any contract, lease, licence or other instrument, or under any general or special Act of the Legislature or otherwise; and
- (b) as to the quantity of water that it is necessary, having due regard to efficiency and economy in development, to use for the purpose of generating such amount of power,

and, upon such report, the Lieutenant Governor in Council may fix and determine, in horsepower, the amount of water that the owner shall generate and in terms of cubic feet per second the amount of water that it is necessary to use in order to develop or generate such power.

(2) If the owner is dissatisfied with the construction so placed upon his rights, or with such limitation and definition, the Lieutenant Governor in Council may, upon the application of the owner, direct a reference to ascertain what rights, if any, have been restricted or impaired by such limitation and definition, and if it is found that such rights exist and that they are so restricted or impaired, to ascertain the compensation that should be paid to the owner for such restriction or impairment.

Reference  
to ascertain  
rights  
affected

(3) The amount of the compensation awarded to the owner upon such reference shall be paid to him in the same manner as the amount of a judgment recovered against the Crown. R.S.O. 1950, c. 420, s. 9.

Payment  
of com-  
pensation

**10.—**(1) Where the Lieutenant Governor in Council deems that the public interest requires that any rights conferred upon the owner of a water power should be restricted or limited in any particular, he may by order in council limit, define or restrict such rights to the construction, operation and use of such works only as may be deemed expedient in the public interest.

Limitation  
of rights  
of owner  
by order  
in council

Reference  
to determine  
compensa-  
tion

(2) If the owner deems himself aggrieved by any such limitation, definition or restriction, the Lieutenant Governor in Council may direct a reference to determine what compensation, if any, should be paid to the owner, and the referee has the like powers and shall proceed in the same manner, and the amount awarded is payable in the same way as in the case of a reference under section 9. R.S.O. 1950, c. 420, s. 10.

Matters to  
be considered  
on reference

**11.**—(1) Upon any reference under this Act, the referee shall take into consideration,

- (a) the conditions under which any rights to generate or develop power were originally obtained;
- (b) the consideration paid or agreed to therefor;
- (c) the capital invested in any works by the owner of a water power;
- (d) the circumstances that render any limitation or restriction of such rights necessary and desirable in the public interest.

Powers of  
commis-  
sioner

R.S.O. 1960,  
c. 323

(2) The referee, upon any inquiry under this Act directed by the Lieutenant Governor in Council, has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 420, s. 11.

Regulations

**12.** The Lieutenant Governor in Council may make regulations respecting,

- (a) the procedure to be followed by the inspector and for conferring on him the powers of a commissioner under *The Public Inquiries Act*;
- (b) the form and term of notices to be given by the inspector and the enforcement of his orders;
- (c) the appointment of officers, servants and agents by the inspector and their duties and powers;
- (d) the procedure to be followed upon any appeal from an order of the inspector;
- (e) any return to be made by the owner of a water power and the particulars to be stated in such returns;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 420, s. 12.

**13.**—(1) Where the inspector reports that the owner of a water power,  
Where owner exceeds his rights, etc.

- (a) is diverting or using more water than the owner is entitled to divert or use; or
- (b) is developing or generating a greater amount of power in horsepower than the owner is entitled to develop or generate; or
- (c) has installed works and equipment capable of developing or generating a greater amount of power in horsepower than the owner is entitled to develop or generate,

the Lieutenant Governor in Council may appoint three commissioners, who shall be judges of the Supreme Court, to hold an inquiry under *The Public Inquiries Act*, and report to the Lieutenant Governor in Council as to,  
R.S.O. 1960 c. 323

- (d) the quantity of water in cubic feet per second that the owner is entitled to divert or use;
- (e) the amount of power in horsepower that the owner is entitled to develop or generate;
- (f) the extent, if any, by which the capacity of the works installed or equipped by the owner exceeds the amount of power in horsepower that the owner is entitled to develop or generate;
- (g) the price and terms and conditions upon which, having regard to all the circumstances and to the rights of the owner as ascertained by the commissioners, the power to the extent of such excess should be delivered to The Hydro-Electric Power Commission of Ontario as hereinafter provided; and
- (h) such matters connected with or arising out of the subject-matter of the reference as they may deem expedient.

(2) If the commissioners find that the owner is diverting or using more water than he is entitled to divert or use, or is developing or generating a greater amount of power in horsepower than he is entitled to develop or generate, or that he has installed and equipped works exceeding in capacity the amount of power that he is entitled to develop or generate, the Lieutenant Governor in Council may order the owner to deliver to The Hydro-Electric Power Commission of Ontario, upon the date named in the order, such amount of electrical power or energy as equals such excess as found by the report  
Where commissioners find that owner is exceeding his rights

of the commissioners, or to operate the works of the owner to their full capacity and to deliver such excess power to The Hydro-Electric Power Commission of Ontario.

Penalty for  
disobedience  
to order

(3) If the owner refuses or neglects to deliver such power after notice in writing so to do, he is liable to a penalty of \$1,000 for every day during which such neglect or default continues, to be recoverable by action in the Supreme Court at the suit of the Attorney General.

Other  
liabilities  
of owner  
not affected

(4) Nothing in this section affects or diminishes any duty or obligation as to payment of any penalty or rental to which the owner might otherwise be liable for exceeding the amount of power that he is entitled to develop or generate, and all such penalties may be collected and all such rentals shall be due and payable and the like proceedings may be taken by the Crown or by any commission or other public body from which the rights or franchises of the owner are derived, as if this Act had not been passed. R.S.O. 1950, c. 420, s. 13.

Owner ex-  
ceeding right  
to use water  
or develop  
power at  
Niagara  
Falls

**14.** Where the owner is developing electrical power or energy by the diversion of the waters of the Niagara River under any contract, agreement, licence, lease or other instrument entered into by the owner or his predecessors in title with or granted to the owner or his predecessors in title by the Commissioners of the Queen Victoria Niagara Falls Park, and the owner diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of electrical energy than he is entitled to develop or generate under the contract, agreement, licence, lease or other instrument, the inspector may, with the authority of the Lieutenant Governor in Council, give to the owner notice in writing to cease diverting or using more water than he is entitled to divert or use or generating or developing a greater amount of electrical power or energy than he is entitled to develop or generate, and if the owner, after the expiration of one month from the giving of such notice, diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of electrical power or energy than he is entitled to develop or generate, then every franchise or right of occupancy or possession or right to develop or use any of the waters of the Niagara River or to operate or construct any works that may be enjoyed by the owner therefor, and notwithstanding anything contained in any such contract, agreement, licence, lease or other instrument or in any by-law or in any general or special Act of the Legislature ceases and is at an end. R.S.O. 1950, c. 420, s. 14.

**15.** The Lieutenant Governor in Council may, at any time, rescind any order made by him under subsection 2 of section 13, and thereupon all right of the owner to develop power or use water or develop or generate power in excess of the owner's rights as found by the commissioners ceases, but any such rescission does not relieve the owner from any penalties incurred by him under subsection 3 of section 13 prior to the date of such rescission. R.S.O. 1950, c. 420, s. 15.

**16.—(1)** The Minister of Lands and Forests in his discretion may fix the terms and conditions upon which water powers or privileges granted by the Crown and any Crown lands necessary for the development thereof may be sold or leased and developed.

(2) All agreements, leases, licences, renewals or other writings relating to water powers or privileges or any Crown lands necessary for the development thereof are binding upon the Crown when signed by the Minister of Lands and Forests or by the Deputy Minister of Lands and Forests. R.S.O. 1950, c. 420, s. 16.



## CHAPTER 427

## The Weed Control Act

## 1. In this Act,

Interpre-  
tation

- (a) "chief inspector" means the chief inspector appointed under this Act;
- (b) "county weed inspector" means a person appointed by the council of a county to enforce this Act within the county;
- (c) "district weed inspector" means a district weed inspector appointed under this Act;
- (d) "inspector" means county weed inspector, district weed inspector, local weed inspector and municipal weed inspector;
- (e) "local weed inspector" means a person appointed by the council of a local municipality to enforce this Act within the municipality;
- (f) "Minister" means the Minister of Agriculture;
- (g) "municipal weed inspector" means a person appointed by the council of a municipality not forming part of a county for municipal purposes;
- (h) "noxious weed" means a plant that is designated under this Act as a noxious weed;
- (i) "owner" means the person shown as the owner of property on the last revised assessment roll of the municipality in which the property is located;
- (j) "regulations" means the regulations made under this Act;
- (k) "weed seed" means the seed of a noxious weed.  
1960, c. 130, s. 1.

2. The Lieutenant Governor in Council may appoint a chief inspector and a district weed inspector for any district designated in his appointment. 1960, c. 130, s. 2.

Appoint-  
ment of  
inspectors,  
chief and  
district

3.—(1) Every person in possession of land shall destroy all noxious weeds thereon as often in every year as is necessary to prevent the ripening of their seeds.

Duty to  
destroy  
noxious  
weeds

Riparian  
owners

(2) Where land abuts a river, stream or lake or other natural body of water, the person in possession of the land shall destroy all noxious weeds as required under subsection 1 that are growing between the limit of his land and the low water mark of that body of water. 1960, c. 130, s. 3.

Road  
authorities  
deemed in  
possession  
of roads  
R.S.O. 1960,  
c. 171

4.—(1) For the purposes of section 3, every road authority within the meaning of *The Highway Improvement Act* shall be deemed to be the person in possession of the land under its jurisdiction.

Recovery  
from road  
authorities

(2) Where the Minister is of the opinion that a road authority has failed to perform its duty under section 3, the Lieutenant Governor in Council may direct that any sums of money payable out of the Consolidated Revenue Fund to the road authority be withheld until such time as the Minister of Highways is satisfied that the road authority has performed such duty. 1960, c. 130, s. 4.

Appoint-  
ment of  
inspectors  
in counties,  
cities,  
separated  
towns and  
municipali-  
ties in  
territorial  
districts

5.—(1) The council of every county, city and separated town and of every municipality in a territorial district shall pass by-laws appointing one or more persons as county weed inspectors, municipal weed inspectors or local weed inspectors, as the case may be, to enforce this Act in the area within its jurisdiction and fixing their remuneration or other compensation.

Division of  
municipality  
into areas

(2) Any such council may divide the municipality into areas and appoint one or more inspectors for each area.

Failure to  
appoint  
inspectors

(3) Where a council fails to appoint an inspector under subsection 1, the Minister may appoint the inspector for the area within the jurisdiction of the council and fix his remuneration or other compensation and shall notify the council of the municipality in writing of the appointment and the treasurer of the municipality shall pay the remuneration or other compensation so fixed.

Annulment  
of inspector's  
appoint-  
ment by  
Minister

(4) If in the opinion of the Minister any inspector is incompetent or fails to carry out his duties, the Minister, after a hearing giving the inspector and the council that appointed him an opportunity to make representations in that regard, may annul the appointment of the inspector.

Reinstatement

(5) If in the opinion of the Minister a council has wrongfully revoked the appointment of an inspector appointed under subsection 1, the Minister, after giving the council and the inspector an opportunity to make representations in that regard, may, in writing addressed to the council concerned, require the council to reinstate the appointment for the remainder of the year. 1960, c. 130, s. 5.



6.—(1) The council of any municipality not included in subsection 1 of section 5 may pass by-laws appointing one or more persons as local weed inspectors to enforce this Act in the area within its jurisdiction and fix the remuneration or other compensation for their services under this Act. Appointment of inspectors in towns, etc.

(2) Where persons are appointed local weed inspectors under subsection 1, they shall carry out their duties in co-operation with the county weed inspector and the county weed inspector may, when he deems it necessary, exercise all the powers of an inspector under this Act in that municipality. Co-operation with county inspector  
1960, c. 130, s. 6.

7.—(1) The clerk of each municipality shall, before the 1st day of April in each year, state in writing to the chief inspector the name and address of every inspector for the municipality under this Act and the area for which each inspector is appointed. Clerk to report inspectors

(2) Where the council passes a by-law under this Act on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law state in writing to the chief inspector the name and address of every inspector appointed and the area for which the appointment is made. Idem

(3) Where any person appointed by by-law under subsection 1 of section 5 resigns or the council revokes his appointment, the clerk of the municipality shall within seven days of the resignation or revocation, as the case may be, state the particulars thereof in writing to the chief inspector. 1960, c. 130, s. 7. Idem

8. Where road commissioners have been appointed under *The Statute Labour Act* in territory without municipal organization, they shall have the powers of an inspector, and the provisions of this Act and the regulations apply in the same manner as in the case of a municipality except that any sums payable by a person liable for expenses incurred or remuneration paid in enforcing this Act are collectable in the manner provided in *The Statute Labour Act* with respect to the enforcement of the payment of charges for statute labour or commutation thereof. 1960, c. 130, s. 8. Inspectors in territory without municipal organization R.S.O. 1960, c. 382

9. For the purpose of searching for noxious weeds or weed seeds, an inspector may at any time between sunrise and sunset enter upon any land and building other than a dwelling house in the area within his jurisdiction and inspect the land, and buildings, and any implements, machinery, vehicles and crops or other plants. 1960, c. 130, s. 9. Powers of inspectors

Order for  
destruction  
of weeds

**10.**—(1) Where an inspector finds noxious weeds or weed seeds on land in the area within his jurisdiction, he may order the person in possession of the land to destroy the noxious weeds or weed seeds within such period of time as is necessary to prevent the weed seeds from ripening.

Time for  
destruction  
of weeds

(2) Every order shall be in the prescribed form and shall specify the time within which the noxious weeds or weed seeds shall be destroyed, but no order shall specify a time of less than seven days from the date of service of the order.

Service  
of order

(3) Every order shall be served upon every person named in the order,

(a) where the person to be served resides on the land, by leaving a copy thereof with the person or with any person over the age of sixteen years residing on the land, or by sending it by registered mail addressed to the person at his usual place of residence; or

(b) where the person to be served does not reside on the land, by leaving a copy thereof with him or by sending it by registered mail addressed to him at his usual place of residence.

Service  
on owner

(4) Every order in which the owner of land is not named shall be served on the owner in the manner set out in subsection 3.

Appeal to  
chief  
inspector

(5) Where any person deems himself aggrieved by an order served upon him, he may, within four days after service of the order, appeal against the order or any requirements of the order to the chief inspector giving reasons for his objection to the order.

Disposition  
of appeal

(6) The chief inspector may confirm, modify or revoke any order of an inspector and shall send a copy of the confirmation, modification or revocation of the order to the inspector who issued the order and to every person upon whom the order was served. 1960, c. 130, s. 10.

Obstruction  
of inspectors

**11.** No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information, or refuse to furnish him with information. 1960, c. 130, s. 11.

Failure to  
comply with  
order

**12.**—(1) Where an order served under section 10 is not complied with, the inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed in the regulations.

Expenses of  
inspectors

(2) Every inspector shall keep a record of the expenses incurred by him in the discharge of his duties under subsection 1 with respect to each parcel of land in one possession, and he

shall serve a statement thereof, together with a notice requesting payment, on the person in possession of the parcel and on the owner of the parcel.

(3) The statement and notice shall be served in the same manner as an order under section 10. Service of statement of expenses

(4) If the person on whom a statement and notice were served under subsection 2 fails to pay the amount set out in the statement within fifteen days after the request for payment, the inspector shall present the statement to the council of the municipality in which the land is located, and the council, if the statement is proper, shall order it to be paid out of the general funds of the municipality. Failure to pay

(5) The council shall cause every amount paid under subsection 4 to be placed on the collector's roll against the land concerned and it shall be collected in the same manner as taxes under *The Assessment Act*, subject to an appeal to the court of revision of the municipality in the same manner as for taxes under section 131 of *The Assessment Act*. 1960, c. 130, s. 12. Collection of costs  
R.S.O. 1960, c. 23

**13.** Notwithstanding any other provision of this Act, the council of any city, town, village or township, after publication of notice thereof in a newspaper having general circulation in the municipality, may direct any of its inspectors or the county weed inspector to cause the noxious weeds or weed seeds on any subdivided portions of the municipality, and lots not exceeding nine acres whether or not the lots are part of a subdivision, to be destroyed in the manner prescribed in the regulations, and the inspector shall report to the clerk of the municipality the amount of the expenses incurred by him in the discharge of his duties under this section with respect to each parcel of land concerned and the clerk shall place on the collector's roll of the municipality the amounts so expended against the respective parcels concerned and such amounts shall be collected in the same manner as taxes under *The Assessment Act*, subject to an appeal to the court of revision of the municipality, in the same manner as for taxes under section 131 of *The Assessment Act*. 1960, c. 130, s. 13. Destruction of weeds in subdivided areas

**14.—(1)** Where a district weed inspector finds noxious weeds or weed seeds on any land within the limits of a municipality in his district, he may deliver or send by registered mail to the clerk of the municipality a notice requiring such noxious weeds or weed seeds to be destroyed before a date specified in the notice. Notice to destroy by district inspector

Failure to  
comply with  
notice

(2) Where any such notice is not complied with, the district weed inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed by the regulations.

Recovery of  
expenses  
and charges

(3) The expenses incurred by a district weed inspector under subsection 2 shall be paid by the municipality concerned and are recoverable in any court of competent jurisdiction by the Minister in the name of Her Majesty as a debt due the Crown, and in any such action the certificate purporting to be signed by the Minister as to the amount of the expenses is conclusive proof thereof without proof of his authority or signature. 1960, c. 130, s. 14.

Deposit of  
noxious  
weeds

**15.** No person shall deposit or permit to be deposited any noxious weeds or weed seeds in any place where the weeds or weed seeds might grow or spread. 1960, c. 130, s. 15.

Cleaning  
machines

**16.** Where the moving of any machine used for threshing, combining, seed cleaning, chopping, baling, silo filling or other handling or processing of farm crops is likely to cause noxious weeds or weed seeds to grow or spread, no person shall move or cause to be moved such machine without first removing all seeds and other residue therefrom. 1960, c. 130, s. 16.

Grain  
elevators,  
etc.

**17.** Every person in charge of a grain elevator, grist mill, flour mill, seed-cleaning plant or other grain-cleaning or grain-grinding plant shall dispose of all refuse containing weed seeds in such manner as will prevent the weed seeds from growing or spreading. 1960, c. 130, s. 17.

Licensing  
of seed-  
cleaning  
plants

**18.—(1)** No person shall operate a plant for the cleaning of grain or seeds for seed purposes without a licence therefor from the Minister.

When no  
fee payable

(2) No fee is payable for a licence or any renewal thereof issued for a seed-cleaning plant that is used only for cleaning the grain and seed of the owner of the plant. 1960, c. 130, s. 18.

Offence

**19.** Every person who contravenes any of the provisions of this Act or of the regulations, or of any order made under this Act, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$25 and for a second or subsequent offence to a fine of not less than \$25 and not more than \$100. 1960, c. 130, s. 19.

Regulations

**20.** The Lieutenant Governor in Council may make regulations,

- (a) designating plants as noxious weeds generally or in respect of any municipality;
  - (b) prescribing the manner of and procedures for destroying noxious weeds and weed seeds, and providing for the circumstances and conditions under which noxious weeds and weed seeds may be destroyed under sections 12, 13 and 14;
  - (c) respecting the transportation of farm produce that is infested with noxious weeds or weed seeds;
  - (d) requiring methods and procedures that shall be taken to prevent the establishment of any noxious weed in any locality;
  - (e) respecting the location and size of a seed-cleaning plant and the equipment required in its operation;
  - (f) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for seed-cleaning plants and prescribing the fees payable for licences or the renewal thereof;
  - (g) providing for the reimbursement of municipalities by the Province for any part of the moneys expended under this Act;
  - (h) prescribing forms and providing for their use;
  - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960, c. 130, s. 20.
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## CHAPTER 428

## The Welfare Units Act

**1.** In this Act,Interpre-  
tation

- (a) "administrator" means a public welfare administrator appointed under this Act;
- (b) "Minister" means the Minister of Public Welfare;
- (c) "regulations" means the regulations made under this Act;
- (d) "unit" means a welfare unit established under this Act. R.S.O. 1950, c. 422, s. 1.

**2.** The council of any municipality may by by-law establish a unit which shall have the same territorial limits as the municipality, provided that no such by-law comes into force or has any effect until it has been approved by the Lieutenant Governor in Council. R.S.O. 1950, c. 422, s. 2.

Establish-  
ment of  
municipal  
units

**3.—(1)** A unit may be established for the unorganized territory in any territorial district.

Establish-  
ment of  
district  
units

(2) The council of any municipality in a territorial district may by by-law, approved by the Lieutenant Governor in Council, become part of the district unit upon such terms and conditions, notwithstanding any Act, as may be provided in the by-law. R.S.O. 1950, c. 422, s. 3.

Enlarge-  
ment of  
district  
units

**4.** Where a municipal unit is established, the Lieutenant Governor in Council, with the consent of the council of the municipality, may appoint an administrator to administer such public welfare matters as are designated in the regulations, and such staff as the administrator may require for the due carrying out of his duties. R.S.O. 1950, c. 422, s. 4.

Adminis-  
trator and  
staff

**5.—(1)** Where a municipal unit is established there shall be paid to the municipality establishing it an amount equal to 50 per cent of the cost of the administration of welfare matters under this Act.

Costs

(2) The amounts payable under this section shall be paid out of such moneys as may be appropriated therefor by the Legislature. R.S.O. 1950, c. 422, s. 5.

How  
payable

Disestablish-  
ment of  
welfare  
unit

**6.—(1)** Where a municipal unit has been established, the municipality may by by-law, or the Lieutenant Governor in Council may by order, disestablish the unit, provided that notice of intention to pass such by-law or make such order has been given to the clerk of the municipality or to the clerk of the Executive Council, as the case may be, at least three months before the by-law or order is to come into effect.

Effective  
date

**(2)** Any such by-law or order is effective on the 31st day of March next after its passing or making, as the case may be. R.S.O. 1950, c. 422, s. 6.

Regulations

**7.** The Lieutenant Governor in Council may make regulations,

- (a) regulating and governing the establishment of units;
  - (b) designating the welfare matters that shall be administered by administrators;
  - (c) governing the qualifications of administrators and the members of their staffs;
  - (d) prescribing the powers and duties of administrators;
  - (e) prescribing the manner of computing the cost of administration of welfare matters under this Act;
  - (f) prescribing the times and manner of payment of amounts under section 5;
  - (g) prescribing the records to be kept under this Act and prescribing the returns to be made to the Minister and the form thereof;
  - (h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 422, s. 7.
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## CHAPTER 429

## The Wharfs and Harbours Act

**1.** This Act applies to every company heretofore or here-  
after incorporated for constructing a pier or wharf, for dredg-  
ing, deepening or making a harbour, or for the erection of a  
dry dock and marine railway connected therewith. R.S.O.  
1950, c. 424, s. 1.

Application  
of Act

**2.—(1)** The company may detain any goods, wares or  
merchandise, or any vessel, boat or craft until the tolls or  
charges thereon have been paid, and may sell any vessel,  
boat or craft for the charges for repairs thereof when such  
charges have remained unpaid for thirty days.

Company's  
right of  
detention  
and sale

**(2)** Where the charges for wharfage or storage dues on  
goods, wares or merchandise have remained unpaid for thirty  
days, the company, after giving ten days notice of sale, may,  
by public auction, sell such goods, wares or merchandise or  
such part thereof as may be necessary to pay such charges  
or dues.

Sale of  
goods for  
dues

**(3)** The company shall pay the surplus, if any, or deliver  
such of the goods as remain unsold to the person entitled  
thereto. R.S.O. 1950, c. 424, s. 2.

Return of  
surplus to  
owner

**3.** The corporation of the municipality in which any such  
work is to be constructed may subscribe for, acquire, hold  
and transfer shares in the company or may direct the head of  
the municipality to subscribe for such shares in the name of  
the corporation and to act for the corporation in all matters  
relating to such shares and the exercise of the rights of the  
corporation as a shareholder, and the head of the municipality,  
whether otherwise qualified or not, may vote and act in  
respect of such shares, subject to any rules and orders in  
relation to his authority made by the council, and according  
to his discretion in cases not provided for by the council.  
R.S.O. 1950, c. 424, s. 3.

Power of  
municipal  
corporation  
to hold  
shares and  
to vote

**4.** A company may sell to the corporation of any municipi-  
pality in which the work is situate, and any such corporation  
may purchase the undertaking and assets of the company at  
the value agreed on between them, and the corporation shall  
in all respects thereafter stand in the place of the company and  
possess all its powers and authority. R.S.O. 1950, c. 424, s. 4.

Power of  
municipal  
corporation  
to purchase  
undertaking  
and assets



## CHAPTER 430

## The White Cane Act

**1.** In this Act,Interpre-  
tation

(a) "blind person" means a person,

(i) who is registered as blind with The Canadian National Institute for the Blind, or

(ii) who is in receipt of an allowance under *The R.S.O. 1960, c. 35*  
*Blind Persons' Allowances Act*;(b) "white cane" means a cane or walking-stick the major part of which is white. R.S.O. 1950, c. 425, s. 1, *amended*.

**2.** No person, other than a blind person, shall carry or use a white cane in any public place, public thoroughfare or public conveyance. R.S.O. 1950, c. 425, s. 2.

**3.** Every person who contravenes section 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$25. R.S.O. 1950, c. 425, s. 4.

**4.—(1)** This Act does not apply to any person who is not a resident of Ontario.

Application  
of Act

(2) Where in any prosecution the person charged with a contravention of this Act alleges that he is not a resident of Ontario, the burden of proving the allegation is upon him. R.S.O. 1950, c. 425, s. 3.

Burden  
of proof

1000  
1000  
1000

1000  
1000  
1000

1000  
1000  
1000

1000  
1000  
1000  
1000  
1000

## CHAPTER 431

## The Wild Rice Harvesting Act

## 1. In this Act,

Interpre-  
tation

- (a) "Crown lands" means lands owned by Her Majesty in right of Ontario, and includes lands covered with water;
- (b) "Deputy Minister" means the Deputy Minister of Lands and Forests;
- (c) "licence" means a licence issued under this Act;
- (d) "Minister" means the Minister of Lands and Forests;
- (e) "resident" means any person who has actually resided in Ontario for a period of twelve consecutive months immediately preceding the time that his residence becomes material under this Act. 1960, c. 131, s. 1.

2. The administration of this Act is under the control and direction of the Minister. 1960, c. 131, s. 2.

Administra-  
tion of Act

3.—(1) Except under the authority of a licence, no person shall harvest or attempt to harvest wild rice on Crown lands.

Licences

(2) No person who is not a resident shall have a licence.

No licence  
to non-  
residents

(3) The issue of a licence is in the discretion of the Deputy Minister, subject to appeal to the Minister.

Issue of  
licence

(4) A licence may be issued on such terms and conditions as are deemed proper. 1960, c. 131, s. 3.

Terms and  
conditions

4.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) governing the issue, form, renewal, transfer, refusal and cancellation of licences and prescribing the fees payable therefor;
- (b) dividing Ontario or any part thereof into wild rice harvesting areas and designating such areas by identifying numbers and initials;
- (c) prescribing royalties payable on wild rice harvested;

(d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem

(2) Any regulation made under subsection 1 may be general or particular in its application territorially or as to time or otherwise. 1960, c. 131, s. 4.

Offence

**5.** Every person who contravenes any provision of this Act or the regulations or any term or condition of his licence is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1960, c. 131, s. 5.

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## CHAPTER 432

## The Wilderness Areas Act

## 1. In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Lands and Forests;
- (b) "public lands" means the lands belonging to Her Majesty in right of Ontario, whether or not covered with water. 1959, c. 107, s. 1.

2. The Lieutenant Governor in Council may set apart any public lands as a wilderness area for the preservation of the area as nearly as may be in its natural state in which research and educational activities may be carried on, for the protection of the flora and fauna, for the improvement of the area, having regard to its historical, aesthetic, scientific or recreational value, or for such other purposes as may be prescribed. 1959, c. 107, s. 2.

Establish-  
ment of  
wilderness  
areas

3. Nothing in this Act or in the regulations made under this Act limits or affects the development or utilization of the natural resources in any wilderness area that is more than 640 acres in size. 1959, c. 107, s. 3.

Saving

4. Land may be acquired under *The Public Works Act* for the purposes of this Act. 1959, c. 107, s. 4.

Acquisition  
of land  
R.S.O. 1960,  
c. 338

5. Wilderness areas are under the control and management of the Minister. 1959, c. 107, s. 5.

Administra-  
tion

6. Notwithstanding *The Game and Fisheries Act* and the regulations thereunder, the Minister may take such measures as he deems proper for the protection of fish, animals and birds in wilderness areas. 1959, c. 107, s. 6.

Protection  
of wild  
life  
R.S.O. 1960,  
c. 158

7.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) for the care, preservation, improvement, control and management of wilderness areas;
- (b) for prohibiting or regulating and controlling the use of lands in wilderness areas;

- (c) for prohibiting or regulating and controlling the admission of persons or domestic animals to wilderness areas and for issuing permits to persons to enter and travel in wilderness areas and prescribing the terms and conditions thereof and the fee therefor;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem

(2) Any regulations under subsection 1 may be made applicable to all wilderness areas, to any wilderness area or to any part of a wilderness area. 1959, c. 107, s. 7.

Offence

**8.** Every person who contravenes any regulation made under this Act or any term or condition of a permit issued under the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1959, c. 107, s. 8.

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## CHAPTER 433

## The Wills Act

## 1. In this Act,

Interpre-  
tation

- (a) "land" includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be paid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;
- (b) "mortgage" includes any lien for unpaid purchase money, and any charge, encumbrance, or obligation of any nature whatever upon any land or tenements of a testator or intestate, and "mortgagee" has a meaning corresponding with that of mortgage;
- (c) "personal estate" includes leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;
- (d) "real estate" includes messuages, land, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and any undivided share thereof, and any estate, right, or interest (other than a chattel interest) therein;
- (e) "will" includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants Act*, and any other testamentary disposition. R.S.O. 1950, c. 426, s. 1. R.S.O. 1960,  
c. 187

## WILLS BEFORE 1ST JANUARY, 1874

When real estate subsequently acquired may pass by the will

**2.** Where a will made before, and not re-executed, republished or revived after the 1st day of January, 1874, by any person dying after the 6th day of March, 1834, contains a devise in any form of words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will is valid and effectual to pass any land acquired by the devisor, after the making of such will, in the same manner as if the title thereto had been acquired before the making thereof. R.S.O. 1950, c. 426, s. 2.

What estate deemed to pass by devise

**3.** Where land is devised in any such will it shall be considered that the devisor intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R.S.O. 1950, c. 426, s. 3.

Witness need not subscribe in the presence of the testator

**4.** Any will affecting land executed after the 6th day of March, 1834, and before the 1st day of January, 1874, in the presence of and attested by two or more witnesses has the same validity and effect as if executed in the presence of and attested by three witnesses; and it is sufficient if the witnesses subscribed their names in the presence of each other, although their names were not subscribed in the presence of the testator. R.S.O. 1950, c. 426, s. 4.

Will by married woman between 4th May, 1859, and 1st January, 1874

**5.** After the 4th day of May, 1859, and before the 1st day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R.S.O. 1950, c. 426, s. 5.

## WILLS AFTER 1ST JANUARY, 1874

Operation of subsequent sections

**6.** Unless herein otherwise expressly provided, the subsequent sections of this Act do not extend to any will made before the 1st day of January, 1874; but every will re-executed or republished, or revived by any codicil, shall for the purposes of those sections, be deemed to have been made at the time at which the will was so re-executed, republished or revived. R.S.O. 1950, c. 426, s. 6.

**7.** Sections 21, 22, 25 and 26 do not apply to the will of any person who died before the 1st day of January, 1869, but do apply to the will of every person who died since the 31st day of December, 1868. R.S.O. 1950, c. 426, s. 7. Application of sections 21, 22, 25 and 26

**8.** Subject to *The Devolution of Estates Act* and *The Accumulations Act*, every person may devise, bequeath, or dispose of by will, executed in manner hereinafter mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heirs or upon his executor or administrator, and the power hereby given extends to estates *pur autre vie*, whether there is or is not any special occupant thereof, and whether the same are corporeal or incorporeal hereditaments, and also to all contingent, executory, or other future interests in any real estate or personal estate, whether the testator is or is not ascertained as the person, or one of the persons, in whom the same may become vested, and whether he is entitled thereto under the instrument by which the same were created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real estate and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R.S.O. 1950, c. 426, s. 8. Power to dispose of all property R.S.O. 1960, cc. 106, 4

**9.** A widow may, in like manner, bequeath the crop of her ground as well as of her dower as of other her real estate. R.S.O. 1950, c. 426, s. 9. Widow's right to dispose of crop

**10.** Save as provided by section 13, no will made by any person under the age of twenty-one years is valid. R.S.O. 1950, c. 426, s. 10. Wills by infants invalid

**11.—(1)** No will is valid unless it is in writing and executed in the manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator; but no form of attestation is necessary. Execution

**(2)** Every will, so far only as regards the position of the signature of the testator, or of the person so signing for him, is valid within the meaning of this Act if the signature is so Position of signature

placed, at, or after, or following or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by such signature to the writing signed as his will, and no such will is affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature, and the enumeration of the above circumstances does not restrict the generality of the above enactment; but no signature is operative to give effect to any disposition, or direction which is underneath, or which follows it, nor does it give effect to any disposition or direction inserted after the signature was made. R.S.O. 1950, c. 426, s. 11.

Exercise of  
appoint-  
ments by  
will

**12.** No appointment made by will in exercise of any power is valid unless the appointment is executed in the manner hereinbefore required, and every will executed in the manner hereinbefore required is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R.S.O. 1950, c. 426, s. 12.

Will of  
member of  
the forces

**13.—(1)** The will of any member of the forces, or of any mariner or seaman when at sea or in course of a voyage, disposing of real or personal property, or both, may be made by a writing signed by him without any further formality or any requirement as to the presence of or attestation or signature by any witness.

Age of  
testator

**(2)** The fact that the member of the forces or the mariner or seaman is under the age of twenty-one years at the time he makes his will does not invalidate it.

Interpre-  
tation

**(3)** In this section, "member of the forces" means a member of the naval, military or air forces of Canada who, having

been placed on active service or called out for training, service or duty, is serving in any of such forces. R.S.O. 1950, c. 426, s. 13.

**14.** Every will executed in manner hereinbefore required is valid without any other publication thereof. R.S.O. 1950, c. 426, s. 14. Publication unnecessary

**15.** If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will is not on that account invalid. R.S.O. 1950, c. 426, s. 15. Effect of incompetency of witness

**16.** If any person attests the execution of any will to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real estate or personal estate, other than and except charges and directions for the payment of any debt, is thereby given or made, such devise, legacy, estate, interest, gift, or appointment is, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or such wife or husband, utterly null and void, and the person so attesting shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R.S.O. 1950, c. 426, s. 16. Gifts, etc., to witness invalid

**17.** In case, by any will, any real estate or personal estate is charged with any debt, and any creditor, or the wife or husband of any creditor, whose debt is so charged attests the execution of such will, the creditor, notwithstanding such charge, shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1950, c. 426, s. 17. Creditor as witness

**18.** No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1950, c. 426, s. 18. Executor as witness

**19.—(1)** In this section,

- (a) an interest in land includes a leasehold estate as well as a freehold estate in land, and any other estate or interest in land whether the estate or interest is real property or is personal property;

Conflict of laws, interpretation

- (b) an interest in movables includes an interest in a tangible or intangible thing other than land, and includes personal property other than an estate or interest in land.

Interests in land

(2) Subject to the other provisions of this section, the manner and formalities of making, and the intrinsic validity and effect of a will, so far as the will relates to an interest in land, are governed by the law of the place where the land is situated.

Interests in movables

(3) Subject to the other provisions of this section, the manner and formalities of making, and the intrinsic validity and effect of a will, so far as the will relates to an interest in movables, are governed by the law of the place where the testator was domiciled at the time of his death.

Idem

(4) As regards the manner and formalities of making a will, so far as it relates to an interest in movables, a will made either in or out of Ontario is valid and admissible to probate if it is made in accordance with the law in force at the time of its making in the place where,

- (a) the will was made; or
- (b) the testator was domiciled when the will was made; or
- (c) the testator had his domicile of origin.

Change of domicile

(5) A change of domicile of the testator occurring after a will is made does not render the will invalid as regards the manner and formalities of its making or alter its construction.

Construction of will

(6) Nothing in this section precludes resort to the law of the place where the testator was domiciled at the time of making a will in aid of its construction as regards an interest in land or an interest in movables.

Movables used in relation to land

(7) When the value of a thing that is movable consists mainly or entirely in its use in connection with a particular parcel of land by the owner or occupier of the land, succession to an interest in the thing, either under a will or an intestacy, is governed by the law of the place where the land is situated.

Application of section

(8) This section applies only to wills made on or after the 1st day of July, 1954.

Application of R.S.O. 1950, c. 426, s. 19

(9) Section 19 of *The Wills Act* as it appears in the Revised Statutes of Ontario, 1950 applies to wills made before the 1st day of July, 1954.

Re-executed wills

(10) For the purposes of this section, a will that is re-executed or that is revived by codicil shall be deemed to be made at the time at which it is so re-executed or revived. 1954, c. 105, s. 1.

**20.** Every will made by any person dying on or after the 13th day of April, 1897, is revoked by the marriage of the testator, except, <sup>Revocation by marriage</sup>

- (a) where it is declared in the will that the same is made in contemplation of such marriage;
- (b) where the wife or husband of the testator elects to take under the will, by an instrument in writing signed by the wife or husband and filed within one year after the testator's death in the office of the Registrar of the Supreme Court;
- (c) where the will is made in the exercise of a power of appointment and the real estate or personal estate thereby appointed would not in default of such appointment pass to the testator's heirs, executor or administrator, or the person entitled as the testator's next of kin under *The Devolution of Estates Act*. <sup>R.S.O. 1960, c. 106</sup> R.S.O. 1950, c. 426, s. 20.

**21.** No will is revoked by any presumption of an intention <sup>Change in circumstances</sup> on the ground of an alteration in circumstances. R.S.O. 1950, c. 426, s. 21.

**22.** No will, or any part thereof, is revoked otherwise <sup>Revocation</sup> than as aforesaid provided by section 20, or by another will executed in the manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction with the intention of revoking the same. R.S.O. 1950, c. 426, s. 22.

**23.** No obliteration, interlineation or other alteration <sup>Obliterations, interlineations, etc.</sup> made in any will after the execution thereof is valid or has any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R.S.O. 1950, c. 426, s. 23.

**24.** No will, or any part thereof, that has been in any <sup>Revival</sup> manner revoked, is revived otherwise than by the re-execution

thereof, or by a codicil executed in the manner hereinbefore required, and showing an intention to revive the same, and where any will that has been partly revoked, and afterwards wholly revoked, is revived such revival does not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shown. R.S.O. 1950, c. 426, s. 24.

Operation of  
the will as to  
any interest  
left in  
testator

**25.** No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real estate or personal estate therein comprised, except an act by which such will is revoked as aforesaid, prevents the operation of the will with respect to such estate, or interest in such real estate or personal estate, as the testator had power to dispose of by will at the time of his death. R.S.O. 1950, c. 426, s. 25.

Will to speak  
from death

**26.—(1)** Every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will.

Application  
of section

**(2)** This section applies to the will of a married woman made during coverture, whether she is or is not possessed of or entitled to any separate property at the time of making it, and any such will need not be re-executed or republished after the death of her husband. R.S.O. 1950, c. 426, s. 26.

Disposition  
of lapsed  
devise

**27.** Unless a contrary intention appears by the will such real estate as is comprised or intended to be comprised in any devise in such will that fails or becomes void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise, if any, contained in such will. R.S.O. 1950, c. 426, s. 27.

Disposition  
of leaseholds  
under a  
general  
devise of  
real estate

**28.** A devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, and any other general devise that would describe a leasehold estate, if the testator had no freehold estate that could be described by it, shall be construed to include his leasehold estates, or any of them, to which such description will extend as well as freehold estates, unless a contrary intention appears by the will. R.S.O. 1950, c. 426, s. 28.



**29.** A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate or any real estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R.S.O. 1950, c. 426, s. 29.

Disposition of property over which testator has a general power of appointment under general devise or bequest

**30.** Where any real estate is devised to any person without any words of limitation, such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple or other the whole estate or interest that the testator had power to dispose of by will, unless a contrary intention appears by the will. R.S.O. 1950, c. 426, s. 30.

Estate passing under devise without words of limitation  
R.S.O. 1960, c. 106

**31.** Where any real estate is devised by any testator, dying on or after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no contrary or other intention is signified by the will, the words "heir" or "heirs" shall be construed to mean the person or persons to whom the real estate of the testator, or of such other person as the case may be, would descend under the law of Ontario in case of an intestacy. R.S.O. 1950, c. 426, s. 31.

Meaning of "heir" in a devise of real estate

**32.** In any devise or bequest of real estate or personal estate, the words "die without issue", or "die without leaving issue", or "have no issue", or any other words that import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; but this Act does not extend to cases where such words import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age or otherwise answer the description required

Import of words "die without issue", or to that effect

for obtaining a vested estate by a preceding gift to such issue. R.S.O. 1950, c. 426, s. 32.

Estate passing under devise to trustee or executor

**33.** Where any real estate is devised to a trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest that the testator had power to dispose of by will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R.S.O. 1950, c. 426, s. 33.

When devise to a trustee shall pass the whole estate beyond what is requisite for the trust

R.S.O. 1960, c. 106

**34.** Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate that the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R.S.O. 1950, c. 426, s. 34.

When devises in tail not to lapse

**35.** Where any person to whom any real estate is devised for an estate tail, or an estate in *quasi* entail, dies in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise does not lapse but takes effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1950, c. 426, s. 35.

Substitutional gifts

**36.** Unless a contrary intention<sup>\*</sup> appears by the will, where a devise or bequest is made to a child, grandchild, brother or sister of the testator who dies before the testator and leaves issue surviving the testator, the devise or bequest does not lapse but takes effect as if it had been made directly to the persons among whom and in the shares in which the estate of that person would have been divisible if he had died intestate and without debts immediately after the death of the testator. 1959, c. 108, s. 1.

Primary liability of real estate to satisfy specific charge

**37.—(1)** Where any person has died since the 31st day of December, 1865, or hereafter dies, seised of or entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum of money by way of mortgage, and such person has not by his will or deed or other document, signified any contrary or other

intention, the heir or devisee to whom such real estate descends or is devised is not entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person, but the real estate so charged is, as between the different persons claiming through or under the deceased person, primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof.

(2) In the construction of a will to which this section relates, a general direction that the debts, or that all the debts, of the testator shall be paid out of his personal estate, or a charge or direction for the payment of debts upon or out of residuary real estate and personal estate or residuary real estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in subsection 1, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some of the testator's debts charged by way of mortgage on any part of his real estate.

Consequence  
of general  
direction for  
payment of  
debts out of  
personalty  
or residue

(3) Nothing herein affects or diminishes any right of the mortgagee to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying or otherwise, and nothing herein affects the rights of any person claiming under any will, deed or document made before the 1st day of January, 1874. R.S.O. 1950, c. 426, s. 37.

Saving of  
mortgagee's  
rights

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## CHAPTER 434

**The Wolf and Bear Bounty Act****1.** In this Act,Interpre-  
tation

- (a) "Minister" means the Minister of Lands and Forests;
- (b) "provisional judicial district" includes the provisional county of Haliburton;
- (c) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 427, s. 1.

## WOLF BOUNTIES

**2.** Where in any county a person has killed a timber or brush wolf and within a period of six months after the killing produces the whole skin before the treasurer of the county, a magistrate or one of the persons designated by the Minister as wolf bounty officers, together with an affidavit in the prescribed form stating the place where and the date when the wolf was killed and that the wolf was not kept in captivity while it was under the age of three months, the treasurer, magistrate or person aforesaid shall give to the person producing the skin a certificate in the prescribed form. R.S.O. 1950, c. 427, s. 2.

**3.** Upon the delivery of a certificate issued under section 2 by the person named therein to the treasurer of the county, together with the whole skin of the wolf, within a period of one month from the date of the certificate, the treasurer shall pay or cause to be paid to such person the sum of \$25 as a bounty on either a timber or a brush wolf that is three months of age or over, and \$15 as a bounty on either a timber or a brush wolf under the age of three months. R.S.O. 1950, c. 427, s. 3.

**4.** Upon the delivery to the Minister by the treasurer of a county of a certificate issued under section 2 completed to the satisfaction of the Minister, together with the whole skin of the wolf, the corporation of the county is entitled to receive out of such moneys as may be appropriated by the Legislature for the payment of wolf bounty 40 per cent of the sum so paid. R.S.O. 1950, c. 427, s. 4.

Proof of  
killing in  
provisional  
judicial  
district

**5.**—(1) Where a timber or brush wolf has been killed in a provisional judicial district, the skin may be produced before a magistrate, the clerk of the district court or one of the persons designated by the Minister as wolf bounty officers.

Certificate

(2) Upon the like proof as required in section 2, the person before whom the skin is produced may give the certificate mentioned in section 2, provided such skin is produced within a period of ten months after the killing, and upon the delivery of the certificate duly completed to the Minister, together with the whole skin, the person named in the certificate is entitled to receive out of such moneys as may be appropriated by the Legislature for the payment of wolf bounty the sum prescribed in section 3. R.S.O. 1950, c. 427, s. 5.

Proof of  
killing

**6.** Where a timber or brush wolf has been killed in a provisional judicial district, except the Provisional Judicial District of Manitoulin, the unskinned head of the wolf may be produced instead of the whole skin of the wolf, in which case the unskinned head shall be deemed to be the whole skin for all purposes of this Act and the regulations. 1954, c. 106, s. 1.

Provincial  
parks

**7.** Where a claim is made for the payment of bounty for any wolf killed in a provincial park, the affidavit may be taken and the certificate may be given by the superintendent of such park or before any of the persons named in subsection 1 of section 5. R.S.O. 1950, c. 427, s. 6.

Disposal  
of skin

**8.**—(1) Before payment of the bounty to the corporation of the county or directly to the person killing the wolf, the whole skin shall be delivered to the Minister or to such person or persons as the Minister may designate for the purpose, and it becomes the property of the Crown and may be disposed of in such manner as may be prescribed by the regulations. R.S.O. 1950, c. 427, s. 7.

Mistaken  
presentation

(2) If it is determined by the person to whom a skin is delivered under subsection 1 that it is not the skin of a wolf, it thereupon becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. 1951, c. 94, s. 1.

Offence

**9.**—(1) Every person who presents or sends to the Minister for bounty, or who is a party to presenting or sending to the Minister for bounty, any wolf skin upon which the bounty has been paid, or the skin of any wolf taken or killed outside of Ontario, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 in respect of every wolf skin so presented or sent, and in

default of payment thereof shall be imprisoned for a term of not more than six months unless the fine is sooner paid.

(2) Upon conviction for an offence under subsection 1, every wolf skin in respect of which the offence was committed shall be forfeited to and becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. R.S.O. 1950, c. 427, s. 8.

#### BEAR BOUNTIES

**10.**—(1) Sections 10 to 13 apply only to such geographical areas of Ontario as are prescribed by the regulations.

(2) No bounty shall be paid on bears killed in areas other than those prescribed in accordance with subsection 1 nor on bears killed in provincial parks, Indian reserves or Crown game preserves. R.S.O. 1950, c. 427, s. 9.

**11.**—(1) Subject to fulfilling the conditions prescribed in sections 10 to 13, where a person has killed a bear in any township of which not less than 25 per cent of the total area is devoted to agriculture, such person is entitled to a bear bounty.

(2) Where in any such township a person kills a bear and,

- (a) within a period of three weeks after the killing produces the whole skin thereof before a magistrate, justice of the peace, game and fisheries officer or one of the persons designated by the Minister as bear bounty officers;
- (b) produces to the officer an affidavit in the prescribed form stating,
  - (i) the place where the bear was killed,
  - (ii) the date when the bear was killed, and
  - (iii) that the bear was not kept in captivity previous to the date on which it was killed;
- (c) proves to the satisfaction of the officer that the bear was killed between April 15th and November 30th in defence or preservation of live stock or property; and
- (d) proves to the satisfaction of the officer that he was at the time of the killing a *bona fide* resident of the township in which the bear was killed, and that he was not at such time a tourist-outfitter or licensed guide, rendering service in such capacity to non-residents of the township,

the officer before whom the skin is produced shall give to the person producing it, a certificate in the prescribed form.

Marking of  
skin

(3) Upon the issue of the certificate, the officer before whom the whole skin is produced shall stamp or mark the skin in the manner prescribed by the regulations and shall then return the skin to the party who killed the bear and it becomes his property. R.S.O. 1950, c. 427, s. 10.

Amount of  
bounty

**12.** Upon the delivery to the Minister of an affidavit and certificate mentioned in section 11 completed to the satisfaction of the Minister, the person named is entitled to receive out of such moneys as may be appropriated therefor by the Legislature the sum of \$10 as a bounty on a bear that is twelve months of age or over, and \$5 as a bounty on a bear under the age of twelve months. R.S.O. 1950, c. 427, s. 11.

Offence

**13.—(1)** Every person who presents for bounty, or who is a party to presenting for bounty, any bear skin upon which the bounty has been paid, or the skin of any bear taken or killed outside the area to which sections 10 to 13 apply, is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 in respect of every bear skin so presented, and in default of payment thereof shall be imprisoned for a term of not more than six months unless the fine is sooner paid.

Forfeiture  
of skin

(2) Upon conviction for an offence under subsection 1, every bear skin in respect of which the offence was committed shall be forfeited to and becomes the property of the Crown in right of Ontario and may be sold by the Minister. R.S.O. 1950, c. 427, s. 12.

#### GENERAL PROVISIONS

Payment  
of claims

**14.** Where the Minister is satisfied that the person who killed any wolf or bear or that the corporation of the county that has paid a wolf bounty is justly entitled to receive the bounty or to be reimbursed as provided in section 4, the Minister may make a requisition on the Treasurer of Ontario accordingly and a cheque shall be issued in payment thereof notwithstanding any defect in the affidavit or certificate or any doubt as to the authority of the officer taking such affidavit or giving such certificate, and in such case the Provincial Auditor shall forthwith, without further audit or examination, countersign the cheque. R.S.O. 1950, c. 427, s. 13.

Entitlement  
determined  
by Minister

**15.** The decision of the Minister on all questions of the entitlement to payment of a bounty and as to the age and classification of animals is final. R.S.O. 1950, c. 427, s. 14.



**16.** Any person authorized to give a certificate under this Act may take any affidavit required to be taken by any applicant for the purpose of obtaining such certificate. R.S.O. 1950, c. 427, s. 15. <sup>Taking affidavits</sup>

**17.—(1)** Every person in possession or control of any live wolf or bear shall within ten days after coming into such possession or control apply in writing to the Minister for a permit to keep it in captivity. <sup>Wolves and bears kept in captivity</sup>

(2) The Minister may issue permits under this section in such form and subject to such terms and conditions as he may in his discretion deem proper. <sup>Issuance of permits</sup>

(3) The Minister may refuse to issue a permit under this section and may cancel any such permit at any time when it is shown to his satisfaction that the person to whom the permit was issued has failed to comply with the terms and conditions thereof. R.S.O. 1950, c. 427, s. 16 (1-3). <sup>Refusal and cancellation of permits</sup>

(4) Where a permit has been issued under subsection 2, the holder thereof shall not release the wolf or bear from captivity until he has obtained the approval in writing of the Minister. 1951, c. 94, s. 2. <sup>Release from captivity</sup>

(5) Every person who contravenes subsection 1 or who keeps any live wolf or bear in captivity after a permit therefor has been refused or cancelled is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100, and in default of payment of the fine shall be imprisoned for a term of not more than three months unless the fine is sooner paid. <sup>Offences</sup>

(6) Any live wolf or bear kept in captivity contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith may be seized and upon conviction of the person in possession or control thereof shall be forfeited to and becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. <sup>Seizure of animals, cages, etc.</sup>

(7) This section does not apply where any live wolf or bear is kept in captivity in any public zoo or for scientific or educational purposes in any public institution. R.S.O. 1950, c. 427, s. 16 (4-6). <sup>Application of section</sup>

**18.** Where in any action, prosecution or other proceeding under this Act, a person claims that bounty is payable in respect of a wolf or bear skin and that such bounty has not been previously paid, the burden of proof is upon such person. R.S.O. 1950, c. 427, s. 17. <sup>Burden of proof</sup>

Regulations

**19.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and contents of certificates and affidavits required for the purposes of this Act;
  - (b) prescribing the fees payable for any permit issued under this Act;
  - (c) prescribing the manner of marking or stamping any skin on which a bounty is paid;
  - (d) defining the geographical areas to which sections 10 to 13 shall apply;
  - (e) providing for the disposal of wolf skins on which bounty has been paid and wolf or bear skins forfeited to the Crown;
  - (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 427, s. 18.
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## CHAPTER 435

## — The Woodmen's Employment Act

## 1. In this Act,

Interpre-  
tation

- (a) "Crown timber" means trees standing, growing or being on ungranted public lands or on other lands where the timber thereon or any portion thereof is the property of the Crown;
- (b) "Department" means the Department of Lands and Forests;
- (c) "employees" means persons in the employ of an operator or in the employ of any person carrying on work under a contract, subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber;
- (d) "Minister" means the Minister of Lands and Forests;
- (e) "operator" means any person holding a licence, permit, contract, agreement or other instrument granted or made by the Crown under which exists the right to cut and remove Crown timber. R.S.O. 1950, c. 428, s. 1.

2.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may appoint an inspector under this Act.

Appoint-  
ment of  
inspector

(2) Such office may be assigned to some person performing other duties in the Department unless the duties are so onerous as to require a separate appointment.

Who may be  
appointed

(3) The Minister or the Deputy Minister of Lands and Forests may appoint any Crown timber agent or other officer of the public service of Ontario to be an assistant inspector, and such assistant inspector has the same duties and powers as the inspector and shall act for such period of time as may be authorized by the Minister or Deputy Minister. R.S.O. 1950, c. 428, s. 2.

Assistant  
inspectors

Duties of  
inspector,  
investiga-  
tions

3. It is the duty of the inspector to investigate from time to time as may be directed by the Minister or the Deputy Minister of Lands and Forests the undertaking or operations of any operator or of any person carrying on work under a contract or subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber, and such investigation shall be made with reference to,

wages and  
hours of  
labour

(a) the computation of the wages or earnings of employees, the hours and times of working, and the method of paying such wages or earnings;

food  
supplies

(b) the sufficiency and wholesomeness of food supplied to employees whether such food is supplied as part of the wages or earnings of such employees or is paid for in cash by such employees, or is deducted from the wages or earnings of such employees;

charges for  
supplies

(c) the prices charged for meals, living accommodation, clothing, boots, supplies, tools, tobacco and any other article sold to, provided for or offered for sale to employees;

deductions  
for services

(d) the amount charged against or deducted from the wages or earnings of employees for medical, dental, transportation or other services or facilities of any nature whatsoever;

assessments

(e) the assessments, levies, fines, penalties or other deductions charged against the wages or earnings of any employee;

camp  
quarters

(f) the rooms, tents, cabins, houses, camps or other places of accommodation provided for the living or working places of employees and the sanitary conditions thereof, or of any storehouse, kitchen, dining-room or other places used for the preparation, storing and serving of food;

contracts

(g) the details of any contract, subcontract, arrangement whether written or otherwise, the carrying out of which involves in any manner the employment of any person;

labour  
conditions

(h) the conditions under which employees labour, the hazards to which employees are subjected in the course of work, and the methods employed in carrying out timbering and lumbering operations;

- (i) such other matters respecting woodmen's employment as may be directed by the Minister or the Deputy Minister of Lands and Forests. R.S.O. 1950, c. 428, s. 3.

4. Every operator is responsible to the Crown for all things done or required to be done in the course of carrying out the timbering or other operations authorized under the licence, permit, contract, agreement or other instrument held by such operator, notwithstanding that such operator by contract, agreement, permit or other instrument, or in any other manner, has authorized or permitted work to be undertaken or performed, or services to be supplied by contractors, subcontractors, permittees, jobbers or by any other person whatsoever. R.S.O. 1950, c. 428, s. 4.

5. The inspector shall transmit to the Minister a report as soon as practicable after each investigation made by him, and the Minister, upon receipt of the report, may make such recommendations to the operator or operators referred to therein or to the Lieutenant Governor in Council as the Minister may deem advisable. R.S.O. 1950, c. 428, s. 5.

6. The Lieutenant Governor in Council may make regulations respecting any of the several matters made the subject of investigation under this Act, or respecting the procedure to be followed in carrying out the provisions of this Act. R.S.O. 1950, c. 428, s. 6.

7. The inspector for the purpose of making an investigation under this Act has power,

- (a) to enter upon any land and premises of any operator and to examine the interior of any room, tent, cabin, house or other place of accommodation provided for the living or working places of employees, and of any kitchen, dining-room, storeroom or other place used for the preparation, serving and storing of food;
- (b) to summon any person to attend as a witness before him with or without the production of documents, payrolls, price lists, diet sheets, shanty books or other books or documents relevant to the investigation, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees, application may be made in a summary way to a justice of the peace having jurisdiction in the city, town or district wherein the investigator may be sitting, for an order compelling such attendance, and such justice of the peace may make such

R.S.O. 1960,  
c. 387

administra-  
tion of oaths

order as might be made in any case wherein such justice has power to compel appearance before him in pursuance of *The Summary Convictions Act*; and

- (c) to administer an oath to any person attending as a witness before him and to examine such person on oath or affirmation. R.S.O. 1950, c. 428, s. 7.

Power of  
keeping  
order during  
hearing

**8.** The inspector during the taking of *viva voce* evidence shall sit and conduct himself as in open court and for the purpose of preserving order during the taking of such evidence has all the powers of a judge of a county or district court, except the power of committing for contempt. R.S.O. 1950, c. 428, s. 8.

Witness  
fees

**9.** Witnesses are entitled to the same fees as in a division court. R.S.O. 1950, c. 428, s. 9.

Irregularity  
in form  
not to  
invalidate

**10.** No proceeding under this Act is invalid by reason of any defect of form or technical irregularity. R.S.O. 1950, c. 428, s. 10.

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## CHAPTER 436

## The Woodmen's Lien for Wages Act

## 1. In this Act,

Interpre-  
tation

- (a) "bailiff" includes a constable who under *The Division Courts Act* may execute an attachment or perform other service; R.S.O. 1960, c. 110
- (b) "labour" means cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber, and includes any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;
- (c) "logs or timber" means logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves or any of them. R.S.O. 1950, c. 429, s. 1.

2. This Act applies only to the provisional county of Haliburton and to the provisional judicial districts. R.S.O. 1950, c. 429, s. 2. Application of Act

3. Where in this Act any act is required to be done by or any paper to be filed or proceedings taken in the office of the clerk of the district court of a district or jurisdiction is conferred upon a district court or the judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the clerk of the county court of the county of Victoria, and the like jurisdiction may be exercised by that court or a judge thereof in respect of matters arising in the provisional county of Haliburton. R.S.O. 1950, c. 429, s. 3. Proceedings in provisional county of Haliburton

4.—(1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act is not to apply, or that the remedies provided by it are not to be available for the benefit of such person, is null and void. Contracts waiving application of Act to be void

(2) This section does not apply to any manager, officer or foreman; or to any person whose wages are more than \$3 a day. R.S.O. 1950, c. 429, s. 4. Exceptions

Lien for  
labour on  
logs or  
timber

**5.—**(1) A person performing labour has a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the lien has precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or which a timber slide company or any owner of a slide or boom may have thereon for tolls.

Contractors,  
with respect  
to labour  
or services  
to be per-  
formed on  
timber

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the performance of labour within the meaning of this section. R.S.O. 1950, c. 429, s. 5.

Lien to  
cease unless  
proceedings  
taken

**6.** The lien ceases unless the claim therefor is filed and proceedings are taken to enforce the same as hereinafter provided. R.S.O. 1950, c. 429, s. 6.

Claim of  
lien to be  
filed

**7.—**(1) The person claiming the lien shall state his claim in writing (Form 1), setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

Verified by  
affidavit

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent (Form 2).

Time for  
filing claim,  
contractors

(3) In the case of a contractor coming within subsection 2 of section 5, the claim and affidavit shall be filed on or before the 1st day of September next following the performance of the labour.

wage-  
earners

(4) In other cases, if the labour was performed between the 1st day of October and the 1st day of April next thereafter, the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed. R.S.O. 1950, c. 429, s. 7.

Place for  
filing claim

**8.—**(1) Except as hereinafter provided, the claim and affidavit shall be filed in the office of the district court of the provisional judicial district in which the labour or some part thereof was performed.

Where labour  
performed  
in certain  
localities

(2) Where the labour was performed upon logs or timber got out to be run down or that have been run down any of the rivers or streams flowing into the Georgian Bay, Lake



Huron, Lake Superior, Lake of the Woods, Rainy Lake, Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the clerk of the district court of the district in which the labour was performed or in the office of the clerk of the district court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the provisional county of Haliburton, the claim may be filed in the office of the clerk of the county court of the county of Victoria. R.S.O. 1950, c. 429, s. 8. In Haliburton

9. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, affects the lien, but the lien remains in force against such logs and timber in whose possession the same is found. R.S.O. 1950, c. 429, s. 9. Sale not to affect lien

10.—(1) Any person having a lien upon logs or timber may enforce the lien by suit, where the claim does not exceed \$200, in the division court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or, where the claim exceeds \$200, in the proper district court where the claim is filed, and the suit may be commenced to enforce the lien, if the claim is then payable, immediately after the filing of the claim, or, if credit has been given, immediately after the expiry of the period of credit, and the lien shall cease unless the proceedings to enforce it are commenced within thirty days after the filing of the claim or after the expiry of the period of credit. Enforcement of liens by suit in district or division courts

(2) In all such suits, the person liable for the payment of the claim shall be made the party defendant. Defendant

(3) Where the defendant is not the owner of the logs, a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose. On whom writ to be served

(4) The owner may, on his own application or by direction of the judge, be made a party defendant. R.S.O. 1950, c. 429, s. 10. Owner may be made defendant

11.—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed, and no statement of claim is necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit Procedure

or proceeding in a division court is necessary whether the suit is brought in a district or in a division court.

Where no  
defence  
filed

(2) Where no dispute or defence is filed, judgment may be signed and execution issued.

Powers of  
court

(3) The court or judge may order particulars to be given or amendments to be made or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed on such terms as may appear just.

Form of  
writ and  
practice

(4) The writ or summons shall be in the form, as nearly as may be, of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the division court.

Service of  
process

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

Form of  
judgment

(6) The judgment shall declare that the judgment is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1950, c. 429, s. 11.

Procedure  
subsequent  
to execution  
in certain  
cases

**12.** Where an execution has been placed in the hands of a sheriff or bailiff for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1950, c. 429, s. 12.

Procedure  
attachment  
in first  
instance

**13.—(1)** Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

Where  
attachment  
after action

(2) Where an attachment issues after proceedings have been commenced by writ or summons, the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1950, c. 429, s. 13.

Form of  
attachment

**14.** The forms of attachment shall be as nearly as may be the same as are in use in the district courts or in the division courts. R.S.O. 1950, c. 429, s. 14.

Summary  
disposal of  
cases

**15.—(1)** Whether the proceedings are commenced by writ or summons or attachment, the judge may direct that the proceedings shall be disposed of summarily by him without

waiting for the regular sittings of the court, upon such terms as to notice and otherwise as he may deem proper, and the proceedings may be so disposed of.

(2) The judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he may deem proper. R.S.O. 1950, c. 429, s. 15. <sup>Powers of judge</sup>

**16.** Where the amount of the claim does not exceed \$200 and is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim and showing that the same has been filed and stating, <sup>When attachment to issue from division court</sup>

- (a) that he has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario; or
- (b) that the person indebted has absconded from Ontario with intent to defraud or defeat his creditors; or
- (c) that he has good reason to believe, and does believe that the person indebted is selling or otherwise disposing of the logs or timber, or is about to do so, with intent to defraud or defeat his creditors; or
- (d) that the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified; and
- (e) that he is in danger of losing his claim if attachment does not issue,

and, if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clause *a*, *b*, *c* or *d* are also filed, the clerk of the proper division court shall issue a warrant, as in the case of an attachment under section 164 of *The Division Courts Act*, directed to the bailiff of the division court commanding such bailiff to attach, seize, take and safely keep such logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the warrant issued. R.S.O. 1960, c. 110 <sup>R.S.O. 1960, c. 110</sup>, s. 429, s. 16.

**17.—**(1) Where the amount claimed exceeds \$200, upon the filing of a copy of the claim and affidavit, the clerk of the district court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under section 16 and such affidavit in corroboration as is provided in section 16, shall issue a writ of attachment directed to the <sup>When attachment to issue out of district court</sup>

sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

Subsequent seizure

(2) Where additional claims are made or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1950, c. 429, s. 17.

Warrant or writ to be served on defendant and the owner of logs

**18.—**(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the district court or division court out of which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant is not the owner of the logs or timber described in the warrant or writ, a copy of the warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

When order allowing service necessary

(2) When a warrant or writ is served upon a person in possession, an order of the judge allowing the service is necessary.

Service where no one in possession of logs

(3) Where the defendant or the owner of the logs or timber cannot be found within the district and there is no one in possession of the logs or timber, a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any division court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

Owner may be made a party

(4) The owner may, on his own application or by direction of the judge, be made a party defendant.

When defendant or owner not in Ontario, etc.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained, and no person is in possession of the logs or timber, the warrant or writ may be served in such manner as the judge directs.

Admission of parties to make defence

(6) Notwithstanding that a defence has not been entered, the judge may admit the defendant and the owner or either of them to make full defence upon such terms as he may deem just. R.S.O. 1950, c. 429, s. 18.

Logs or timber in transit within district not to be detained

**19.** A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which

the proceedings were commenced, but if such logs or timber are so in transit, or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner, or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same, both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted the sheriff or bailiff may receive the logs or timber from such person, and the statutory lien of such person is not released by the holding of the sheriff or bailiff. R.S.O. 1950, c. 429, s. 19.

**20.** The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the judge, take any proceedings that the owner of any logs or timber may take under *The Lakes and Rivers Improvement Act* for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the judge so directs. R.S.O. 1950, c. 429, s. 20.

Separation  
of logs

R.S.O. 1960,  
c. 203

**21.** In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1950, c. 429, s. 21.

Sheriff or  
bailiff to  
restore pos-  
session upon  
execution  
of bond

**22.—(1)** Any person who has been served with a copy of the warrant or writ of attachment and who desires to dispute the claim shall, within fourteen days after such service, enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

Notice of  
dispute

**(2)** If no notice of dispute is entered, judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1950, c. 429, s. 22.

If no notice  
of dispute  
entered  
judgment  
may be  
entered

Persons  
served with  
attachment  
may pay  
amount  
claimed  
into court

**23.—**(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and is thereupon entitled to a certificate vacating the liens.

Subsequent  
procedure

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens are vacated and all further proceedings thereon shall cease, and the defendant is entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 21. R.S.O. 1950, c. 429, s. 23.

Day for  
hearing to be  
fixed by ad-  
vertisement

**24.—**(1) After the expiration of the time within which a notice of dispute may be entered, the judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber are to appear before him for the adjustment of their claims and the settlement of accounts.

Service of  
appointment  
and adver-  
tisement

(2) The appointment shall be served upon the defendants and upon the owner, if the judge so directs, and shall also, if the judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

Notification  
of lien-  
holders and  
the Minister

(3) A copy of the appointment shall also be sent by registered mail to every claimant known to the plaintiff and to the Minister of Lands and Forests, at least two weeks before the day appointed, directed to the post office address of such claimant where the same is known and if not known then to his last known address. R.S.O. 1950, c. 429, s. 24.

Parties filing  
notices of  
disputes or  
claims to  
attend on  
day named  
in appoint-  
ment

**25.—**(1) Upon the day named in the appointment, the persons served with a copy thereof and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims shall attend before the judge.

Proof of  
claims

(2) Where a claim is brought pursuant to the notice, it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases.

Judge to  
hear all  
parties, take  
accounts, etc.

(3) The judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs and determine by whom the costs shall be paid, and settle priorities and generally determine all such

matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1950, c. 429, s. 25.

**26.**—(1) At the conclusion of the inquiry, the judge shall make his report and order which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs and, that in default of payment, the logs or timber will be sold by the sheriff or bailiff for the satisfaction thereof.

Order to be made by judge at conclusion of inquiry

(2) In default of payment into court within the time named in the order, the logs or timber shall, within twenty days thereafter, be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the judge may direct.

In default of payment into court logs or timber to be sold

(3) The amount realized by the sale shall, after deducting the expenses thereof and the fees and poundage of the sheriff or bailiff, be paid into court and shall be paid out by the clerk to the parties entitled thereto under the order of the judge.

Application of proceeds of sale

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the judge shall apportion the amount realized *pro rata* among the claimants.

Judge to apportion

(5) Where after sale and distribution any balance remains due to any person under the order of the judge, the clerk shall, upon application of such person, give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the district court or division court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1950, c. 429, s. 26.

Certificate of balance due after distribution to be entered as a judgment

**27.** Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs that may be found due to the defendant or the owner of the logs or timber. R.S.O. 1950, c. 429, s. 27.

Where nothing found due on inquiry, lien to be discharged

**28.**—(1) Where the taxed costs, exclusive of necessary disbursements, that are payable out of the amount realized for the satisfaction of the lien exceed 25 per cent of the amount realized, such costs, upon application by any party, may be reduced by the judge so that the costs will not in the aggregate exceed 25 per cent, and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

Costs

Limit of,  
where claim  
not  
contested

(2) The costs in addition to actual and necessary disbursements that may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and where the amount claimed is within the jurisdiction of the division court shall not exceed \$2 where a solicitor is employed.

Where claim  
contested

(3) In case of a contest where a solicitor is employed, the judge may allow such costs not exceeding in any case \$10 when taxed on the district court scale or \$5 when taxed on the division court scale in addition to actual and necessary disbursements, but where the claim does not exceed \$50 then such costs shall not exceed \$3.

Tariff

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1950, c. 429, s. 28.

Disposition  
of balance  
after sale  
and satis-  
faction of  
liens

**29.**—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims that have been proved with interest and costs, the judge, upon the application of any creditor within thirty days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff who shall hold and distribute the same as provided by *The Creditors' Relief Act* in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by *The Creditors' Relief Act* for proving claims and obtaining certificates or executions.

R.S.O. 1960,  
c. 78

Order for  
payment

(2) If no such application is made to the judge within such period of thirty days, the judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1950, c. 429, s. 29.

Dismissal of  
proceedings  
for want of  
prosecution

**30.** Any person affected by proceedings taken under this Act may apply to the judge to dismiss the proceedings for want of prosecution, and the judge may make such order upon the application as he may deem just. R.S.O. 1950, c. 429, s. 30.

Other  
remedies not  
affected

**31.**—(1) Nothing in this Act deprives any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber.

Where lien  
not estab-  
lished,  
judgment  
for amount  
found due

(2) Where an action is brought to enforce a lien but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. R.S.O. 1950, c. 429, s. 31.



**32.** Any number of lienholders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 7 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. R.S.O. 1950, c. 429, s. 32.

Any number of lienholders may join in proceedings

**33.** Where proceedings have been commenced in the district court and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a division court, the judge may order the proceedings in the division court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the division court, and thereafter all persons who have filed claims in the division court are entitled to prove their claims and to share in the benefit of the proceedings in the district court. R.S.O. 1950, c. 429, s. 33.

Transfer of suit from division court in case proceedings taken in district court

**34.** Where suits are brought in several district courts or in several division courts, the procedure under sections 24 to 26 shall be had in the district or division court out of which an execution or attachment first issued, unless the judge of such court otherwise orders. R.S.O. 1950, c. 429, s. 34.

Where suits in several courts

**35.** The practice and procedure in actions brought in the district courts or in division courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. R.S.O. 1950, c. 429, s. 35.

Practice

**36.** Any person who unlawfully and maliciously and without reasonable and probable cause takes or causes to be taken proceedings under this Act by which logs or timber are seized, detained or sold is liable therefor in an action at the suit of any person aggrieved thereby, and is also liable for all loss and damage occasioned by such seizure by reason of such logs or timber breaking away or being scattered or lost, or otherwise. R.S.O. 1950, c. 429, s. 36.

Liability for loss occasioned by improper seizure

**37.—(1)** No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note or other undertaking, other than a bank note or bill drawn upon or payable at or within any place out of Ontario.

Illegal payments

**(2)** Every person who contravenes, or who directs or knowingly suffers his agent or servant to contravene, the

Offence

provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$20. R.S.O. 1950, c. 429, s. 37.

Illegal  
payments  
not to be  
allowed as a  
defence in  
any action

**38.** No payment made or offered to be made in contravention of section 37 is a defence to an action or proceeding for the recovery of wages, or is receivable in evidence therein, nor does any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale or transfer of any instrument mentioned in section 37, in whole or in part, by the payee the consideration received by him shall be treated as payment on account. R.S.O. 1950, c. 429, s. 38.

Form of  
proceedings

**39.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may prescribe forms for the more convenient carrying out of the provisions of this Act. R.S.O. 1950, c. 429, s. 39.

## FORM 1

(Section 7 (1) )

## CLAIM OF LIEN

A. B. (name of claimant) of (state residence of claimant), if claim made as assignee then say as assignee of, giving name and address of assignor) under *The Woodmen's Lien for Wages Act*, claims a lien upon certain logs or timber of (here state the name and residence of the owner of logs or timber upon which the lien is claimed if known) which logs and timber are composed of (state the kinds of logs and timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim) in respect of the following work, that is to say, (here give a short description of the work done for which the lien is claimed) which work was done for (here state the name and residence of the person upon whose credit the work was done) between the .....day of .....and the .....day of .....at .....per (month or day as the case may be).

The amount claimed as due (or to become due) is the sum of .....  
(and when credit has been given, the said work was done on credit, and the period of credit will expire on the .....day of .....).

Dated at .....this .....day of ....., 19.....

(Signature of claimant).

R.S.O. 1950, c. 429, Form 1.

## FORM 2

(Section 7 (2) )

## AFFIDAVIT TO BE ATTACHED TO CLAIM

I, ....., make oath and say that I have read (or have heard read) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which (naming the debtor) is entitled to credit.

Sworn before me at .....in the district }  
of .....this .....day of ....., 19..... }

A Commissioner.

R.S.O. 1950, c. 429, Form 2.



## CHAPTER 437

**The Workmen's Compensation Act****1.—(1) In this Act,**Interpre-  
tation

- (a) "accident" includes a wilful and an intentional act, not being the act of the workman, and a fortuitous event occasioned by a physical or natural cause;
- (b) "accident fund" means the fund provided for the payment of compensation, outlays and expenses under the Act in respect of Schedule 1, the salaries of the Commissioners and all expenses arising out of the establishment, maintenance and operation of mine rescue stations as provided by *The Mining Act*; R.S.O. 1960, c. 241
- (c) "Board" means the Workmen's Compensation Board;
- (d) "construction" includes reconstruction, repair, alteration and demolition;
- (e) "dependants" means such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent;
- (f) "earnings" and "wages" include any remuneration capable of being estimated in terms of money; R.S.O. 1950, c. 430, s. 1 (1), cls. (a-f).
- (g) "employer" includes every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes the Crown in right of Ontario and any permanent board or commission appointed by the Crown in right of Ontario and includes a person who authorizes or permits a learner to be in or about an industry for the purpose mentioned in clause 1, and, where the services of a workman are temporarily lent or hired to another person by the person with whom the workman has entered into such a contract, the latter is deemed to continue to be the employer of the workman while he is working for that other person; R.S.O. 1950, c. 430, s. 1 (1), cl. (g); 1952, c. 114, s. 1 (1).

- (h) "employment" includes employment in an industry or any part, branch or department of an industry;
- (i) "industrial disease" means any of the diseases mentioned in Schedule 3 and any other disease peculiar to or characteristic of a particular industrial process, trade or occupation;
- (j) "industry" includes establishment, undertaking, trade and business;
- (k) "invalid" means physically or mentally incapable of earning; R.S.O. 1950, c. 430, s. 1 (1), cls. (h-k).
- (l) "learner" means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of Part I for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment; 1952, c. 114, s. 1 (2), *part*.
- (m) "manufacturing" includes making, preparing, altering, repairing, ornamenting, printing, finishing, packing, assembling the parts of and adapting for use or sale any article or commodity;
- (n) "medical referee" means a medical referee appointed by the Board;
- (o) "member of the family" means a wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis*, whether related to him by consanguinity or not so related, and, where the workman is the parent or grandparent of an illegitimate child, includes such child and, where the workman is an illegitimate child, includes his parents and grandparents; R.S.O. 1950, c. 430, s. 1 (1), cls. (l-n).
- (p) "member of a municipal volunteer fire brigade" means a person whose membership has been approved either by the chief of the fire department of a corporation, commission or board mentioned in subsection 2 or by a duly authorized official thereof; 1952, c. 114, s. 1 (2), *part*.
- (q) "outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or

adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

- (r) "regulations" means the regulations made under this Act;
- (s) "silicosis" means a fibrotic condition of the lungs sufficient to produce a lessened capacity for work, caused by the inhalation of silica dust;
- (t) "superannuation fund" means The Workmen's Compensation Board Superannuation Fund; R.S.O. 1950, c. 430, s. 1 (1), cls. (o-r).
- (u) "workman" includes a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner and a member of a municipal volunteer fire brigade, but when used in Part I does not include an outworker or an executive officer of a corporation. R.S.O. 1950, c. 430, s. 1 (1), cl. (s); 1952, c. 114, s. 1 (3).

(2) The exercise and performance of the powers and duties of,

Municipal  
corporations,  
etc., and  
school  
boards

- (a) a municipal corporation;
- (b) a public utilities commission or any other commission or any board having the management and conduct of any work or service owned by or operated for a municipal corporation except a hospital board;
- (c) a public library board;
- (d) the board of trustees of a police village; and
- (e) a school board except a rural school board,

shall for the purposes of Part I be deemed the trade or business of the corporation, commission, board, board of trustees or school board. R.S.O. 1950, c. 430, s. 1 (2); 1958, c. 123, s. 1.

(3) For the purposes of this Act, a municipal corporation, commission or board mentioned in subsection 2 shall be deemed to be the employer of a member of a municipal volunteer fire brigade, and such employment shall be deemed to be included in the exercise and performance of the powers and duties of the corporation, commission or board and it shall yearly, on or before such date as the Board may prescribe or at such other times as the Board may prescribe, notify the Board, specifying the number of volunteers engaged and shall state

Volunteer  
fire  
brigades

the average earnings of such volunteers which in no case shall be less than \$2,000 or more than \$5,000 per annum. 1952, c. 114, s. 1 (4); 1956, c. 93, s. 1.

Schedules  
1, 2 and 3

**2.** A reference in this Act to Schedule 1, 2 or 3 is a reference to Schedule 1, 2 or 3, as the case may be, in the regulations. R.S.O. 1950, c. 430, s. 2.

## PART I

### COMPENSATION

Compensa-  
tion to  
workman

**3.—(1)** Where in any employment, to which this Part applies, personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer is liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned, except where the injury,

- (a) does not disable the workman for a period of at least five days from earning full wages at the work at which he was employed; or
- (b) is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or serious disablement. R.S.O. 1950, c. 430, s. 3 (1); 1951, c. 95, s. 1.

Presump-  
tions

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and, where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

Compensa-  
tion to  
date from  
disability

(3) Where compensation for disability is payable, it shall be computed and be payable from the date of the disability.

Section not  
to apply to  
casual em-  
ployment

(4) This section does not apply to a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business. R.S.O. 1950, c. 430, s. 3 (2-4).

Employers  
liable to  
contribute  
to the  
accident  
fund

**4.** Employers in the industries for the time being included in Schedule 1 are liable to contribute to the accident fund as hereinafter provided, but are not liable individually to pay compensation. R.S.O. 1950, c. 430, s. 4.

Employers  
individually  
liable

**5.** Employers in the industries for the time being included in Schedule 2 are liable individually to pay compensation and medical aid. R.S.O. 1950, c. 430, s. 5.



6.—(1) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the workman are in Ontario and an accident happens while the workman is employed out of Ontario and his employment out of Ontario has lasted less than six months, the workman is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario. R.S.O. 1950, c. 430, s. 6 (1).

Accident while workman employed outside Ontario

(2) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the workman are in Ontario and the employment of the workman out of Ontario lasts or is likely to last six or more months, the employer may apply to the Board to be assessed on the earnings of such workman and, if the application is accepted by the Board and if the workman is injured by accident happening out of Ontario, the workman is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario. 1953, c. 109, s. 1 (1).

Accident while workman employed outside Ontario for 6 or more months

(3) Where the place of business or chief place of business of the employer is situate in Ontario and the residence of the workman is out of Ontario but his usual and principal place of employment is in Ontario and an accident happens while the workman is out of Ontario merely for some temporary purpose connected with his employment, the workman is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

Accident while workman outside Ontario temporarily

(4) Where an accident happens out of Ontario and the employer's place of business or chief place of business is situate out of Ontario and the workman is entitled to compensation under the law of the place where the accident happens, compensation is not payable to the workman or his dependants whether his residence is in or out of Ontario unless his place of employment is in Ontario and he is at the time of the accident out of Ontario merely for some casual or incidental purpose connected with his employment. R.S.O. 1950, c. 430, s. 6 (2, 3).

Where employer's place of business out of Ontario

(5) Where an accident happens out of Ontario on a steam-boat, ship or vessel, or on a railway or on an aircraft, or on a truck, bus or other vehicle used in the transportation of passengers or any goods or substance, and the residence of the workman is in Ontario and the work or service rendered by him is required to be performed both in and out of Ontario, the workman is or his dependants are entitled to compensation

Accidents on ships, railways, aircraft, etc.

under this Part as if the accident had happened in Ontario. R.S.O. 1950, c. 430, s. 6 (4); 1953, c. 109, s. 1 (2).

Accident  
on steam-  
boat or  
vessel  
outside of  
Ontario

(6) Where an accident happens out of Ontario on a steamboat, ship or vessel and the residence of the workman is in Ontario, and whether he had been employed previously in Ontario or not, and regardless of the duration of his employment out of Ontario, the workman is or his dependants are entitled to compensation under this Part if the steamboat, ship or vessel is registered in Canada or if the owner or charterer of the steamboat, ship or vessel has his chief place of business in Ontario.

Accidents  
excluded

(7) Except as provided in this section, no compensation is payable under this Part where the accident to the workman happens while he is employed elsewhere than in Ontario. R.S.O. 1950, c. 430, s. 6 (5, 6).

Authority  
to avoid  
duplication  
of assess-  
ments

(8) With a view to avoiding duplication of assessments to which an employer may be liable on the earnings of workmen who are employed part of the time in Ontario and part of the time in another province or territory of Canada, the Board may make an agreement with the workmen's compensation authority of that province or territory for such adjustment of assessments as is equitable and may reimburse such other authority for any payment of compensation, rehabilitation or medical aid made by it under such agreement, and may, in order to give effect to any such agreement, relieve any such employer from assessment or reduce the amount thereof. 1953, c. 109, s. 1 (3).

Where com-  
pensation  
payable  
by law of  
foreign  
country,  
workman  
to elect

7.—(1) Where by the law of the country or place in which the accident happens the workman is or his dependants are entitled to compensation in respect of it, they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and, if such election is not made and notice given, it shall be presumed that they have elected not to claim compensation under this Part.

How  
election to  
be made

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer and, where the compensation is payable out of the accident fund, to the Board, and shall be given in both cases within three months after the happening of the accident or, in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow. R.S.O. 1950, c. 430, s. 7.

8.—(1) Where a dependant is not a resident of Canada, Dependants not resident in Canada he is not entitled to compensation unless by the law of the place or country in which he resides the dependants of a workman to whom an accident happens in such place or country if resident in Canada would be entitled to compensation and, where such dependants would be entitled to compensation under such law, the compensation to which the non-resident dependant is entitled under this Part shall not be greater than the compensation payable in the like case under that law.

(2) Notwithstanding subsection 1, the Board may award Exception such compensation or sum in lieu of compensation to any such non-resident dependant as may be deemed proper and may pay the same out of the accident fund, or order it to be paid by the employer, as the case may be.

(3) Notwithstanding any other provision, where a workman Where dependants non-residents in the employ of a railway company has been obliged by the nature of his work to change his residence from Ontario to a place outside of Ontario, his dependants who have become non-residents of Ontario by reason thereof are, in respect of an accident to such workman happening in Ontario, entitled, should they resume residence in Ontario, to the same compensation as if they had been resident in Ontario at the time of the workman's death, and this provision applies to all pension payments to dependants accruing after the 12th day of August, 1922, whether the accident happened before or after that date, and whether the award of compensation has been heretofore or is hereafter made, but does not entitle any person to claim additional compensation for any period prior to that date. R.S.O. 1950, c. 430, s. 8.

9.—(1) Where an accident arising out of and in the course of his employment happens to a workman under such circumstances as entitle him or his dependants to an action against Where workman entitled to action against person other than employer some person other than his employer, the workman or his dependants, if entitled to compensation under this Part, may claim such compensation or may bring such action.

(2) If an action is brought and less is recovered and collected than the amount of the compensation to which the workman or his dependants are entitled under this Part, the difference between the amount recovered and collected and the amount of such compensation is payable as compensation Workman entitled to difference between compensation under Act and amount collected to the workman or his dependants.

(3) If the workman or his dependants elect to claim compensation under this Part, the employer, if he is individually liable to pay it, and the Board, if the compensation is payable out of the accident fund, are subrogated to the rights of Subrogation of employer or Board to rights of workman

the workman or his dependants and may maintain an action in his or their names or in the name of the Board against the person against whom the action lies, and any sum recovered from him by the Board shall form part of the accident fund.

How election  
to be made

(4) The election shall be made and notice of it shall be given within the time and in the manner provided by section 7. R.S.O. 1950, c. 430, s. 9 (1-4).

Where  
dependants  
are infants

(5) Where there are infant dependants, the election may be made on their behalf by a parent or guardian. 1953, c. 109, s. 2.

Right of  
action de-  
clared to be  
taken away  
as against  
employer in  
Schedule 1

(6) No employer in Schedule 1 and no workman of an employer in Schedule 1 or dependant of such workman has a right of action against any employer in Schedule 1 or against any workman of any such employer in any case within subsection 1, but, in any case where it appears to the satisfaction of the Board that a workman of an employer in any class or group in Schedule 1 is injured or killed owing to the negligence of an employer or the workman of an employer in another class or group in Schedule 1, the Board may direct that the compensation and medical aid awarded in any such case shall be charged against the class or group to which the last-mentioned employer belongs.

Damages

(7) In any action brought by a workman of an employer in Schedule 1 or dependant of such workman in any case within subsection 1 or maintained by the Board under subsection 3 and one or more of the persons found to be at fault or negligent is the employer of the workman in Schedule 1, or any other employer in Schedule 1, or any workman of any employer in Schedule 1, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the workman in Schedule 1, or of any other employer in Schedule 1, or of any workman of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the workman in Schedule 1, or of any other employer in Schedule 1, or of the workman of any employer in Schedule 1, shall be determined although such employer or workman is not a party to the action.

Idem

(8) In any action brought by a workman of an employer in Schedule 2 or dependant of such workman in any case within subsection 1 or maintained by the employer of the workman under subsection 3 and one or more of the persons found to be at fault or negligent is the employer of the workman in Schedule 2, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer and the portion of

the loss or damage so caused by the fault or negligence of such employer shall be determined although such employer is not a party to the action. R.S.O. 1950, c. 430, s. 9 (5-7).

**10.—(1)** The workmen of a contractor or subcontractor<sup>Employers and contractors</sup> executing any work in or for the purposes of an industry under this Part, carried on by another person, in this subsection and in subsection 2 referred to as the principal, shall be deemed to be the workmen of the principal unless such contractor or subcontractor is, in respect of such work, assessed, or added and assessed, as the case may be, as an employer in Schedule 1, or, in cases where such contractor or subcontractor is, in respect of such work, individually liable for payment of compensation, unless the Board finds and declares that the responsibility of such contractor or subcontractor is sufficient protection to his workmen for the benefits provided for by this Act.

(2) Where a principal has made payment of assessment or compensation or furnished medical aid that, but for subsection 1, he would not have been liable to pay or furnish, he is entitled to reimbursement from the contractor or subcontractor to such extent as the Board finds such contractor or subcontractor would have been liable.<sup>Right of principal employer to reimbursement from contractor</sup>

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this subsection and in subsection 4 referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it is the duty of the principal to see that any sum that the contractor or any subcontractor is liable to contribute to the accident fund is paid, and, if any such principal fails to do so, he is personally liable to pay it to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.<sup>Liability of principal to pay assessments</sup>

(4) Where the principal is liable to make payment to the Board under subsection 3, he is entitled to be indemnified by any person who should have made such payment and is entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board.<sup>Right of indemnity</sup>

(5) Nothing in this section prevents a workman claiming compensation or the Board collecting contribution to the accident fund from the contractor or any subcontractor instead of the principal. R.S.O. 1950, c. 430, s. 10.<sup>Liability of contractor or subcontractor to contribute</sup>

Liability  
of licensee  
to pay  
assessments  
R.S.O. 1960,  
c. 83

**11.**—(1) Where a licence is granted under *The Crown Timber Act* and timber is cut by a person other than the licensee, it is the duty of the licensee to see that any sum that the person engaged in the cutting of such timber is liable to contribute to the accident fund is paid and, if the licensee fails to do so, he is personally liable to pay such sum to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Right of  
indemnity

(2) Where the licensee is liable to make payment to the Board under subsection 1, he is entitled to be indemnified by any person who should have made such payment and is entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board. 1958, c. 123, s. 2.

Where  
employer  
carried on  
payroll, he  
and  
dependants  
entitled to  
compensa-  
tion

**12.** Where compensation is payable out of the accident fund and an employer carries himself on his pay roll or an executive officer of a corporation is carried on the pay roll of the corporation at a salary or wage that the Board deems reasonable, but not exceeding the rate of \$5,000 per annum, and it is stated in the pay roll statement furnished to the Board under section 92 that it is desired that such employer or executive officer be included as a workman, and the amount of his salary or wages is shown in such statement and included in the estimate for the year, such employer or executive officer shall be deemed to be a workman within the meaning of this Act and he is or his dependants are entitled to compensation accordingly, but, for the purpose of determining the compensation, his earnings shall not be taken to be more than the amount of his salary or wages as shown by such statement. R.S.O. 1950, c. 430, s. 11; 1956, c. 93, s. 2.

No action to  
be brought  
to recover  
compensa-  
tion

**13.** No action lies for the recovery of compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board. R.S.O. 1950, c. 430, s. 12.

Where  
workman  
residing out  
of Ontario  
entitled to  
compensa-  
tion

**14.** If a workman receiving a weekly or other periodical payment ceases to reside in Ontario, he is not thereafter entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature, and, if a medical referee so certifies and the Board so directs, the workman is entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the regulations his identity and the con-

tinuance of the disability in respect of which the same is payable. R.S.O. 1950, c. 430, s. 13.

**15.** The provisions of this Part are in lieu of all rights and rights of action, statutory or otherwise, to which a workman or the members of his family are or may be entitled against the employer of such workman for or by reason of any accident happening to him or any industrial disease contracted by him on or after the 1st day of January, 1915, while in the employment of such employer, and no action lies in respect thereof. R.S.O. 1950, c. 430, s. 14.

Provisions of Act in lieu of all rights of action against employer

**16.** Any party to an action may apply to the Board for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination is final and conclusive. R.S.O. 1950, c. 430, s. 15.

Determination of workman's right to bring action

**17.** It is not competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants are or may become entitled under this Part and every agreement to that end is absolutely void. R.S.O. 1950, c. 430, s. 16.

Right to compensation may not be waived

**18.—(1)** Where the compensation is payable by an employer individually, no agreement between a workman or dependant and the employer for fixing the amount of the compensation or by which the workman or dependant accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it is binding on the workman or dependant unless it is approved by the Board.

Agreement as to compensation not valid unless approved by the Board

(2) Subsection 1 does not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the workman or dependant, or of its own motion, set aside the agreement on such terms as may be deemed just.

Idem

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the workman or dependant has become entitled because of it. R.S.O. 1950, c. 430, s. 17.

Idem

**19.—(1)** It is not lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum that the employer is or may become liable to pay to the workman as compensation under this Part

Deduction not to be made from wages

or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability that he has incurred or may incur under this Part.

**Offence**

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and for every such contravention is on summary conviction liable to a fine of not more than \$50 and is also liable to repay to the workman any sum that has been so deducted from his wages or that he has been required or permitted to pay in contravention of subsection 1. R.S.O. 1950, c. 430, s. 18.

**Compensation not assignable or liable to attachment**

**20.** Unless with the approval of the Board, no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it is capable of being assigned, charged or attached, nor does it pass by operation of law except to a personal representative nor shall any claim be set off against it. R.S.O. 1950, c. 430, s. 19.

**Notice of accident**

**21.—(1)** Subject to subsection 5, compensation or medical aid is not payable unless notice of the accident is given as soon as practicable after the happening of it and before the workman has voluntarily left the employment in which he was injured and unless the claim for compensation or medical aid is made within six months from the happening of the accident or, in case of death, within six months from the time of death.

**Nature of notice**

(2) The notice shall give the name and address of the workman and is sufficient if it states in ordinary language the cause of the injury and where the accident happened.

**Service of notice**

(3) The notice may be served by delivering it at or sending it by registered mail addressed to the place of business or the residence of the employer or, where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered mail addressed to the employer at the office or, if there are more offices than one, at any of the offices of such body of persons.

**Notice to Board**

(4) The notice shall also be given to the Board by delivering it to or at the office of the secretary or by sending it to him by registered mail addressed to his office.

**Failure to give, or defect in notice not to affect right to compensation in certain cases**

(5) Failure to give the prescribed notice or to make such claim or any defect or inaccuracy in a notice does not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or, where the compensation is payable out of the accident fund, if the Board is of opinion that the claim for compensation is a just one and ought to be allowed. R.S.O. 1950, c. 430, s. 20.



**22.**—(1) A workman who claims compensation or to whom compensation is payable under this Part shall, if required by his employer, submit himself for examination by a duly qualified medical practitioner provided and paid for by the employer and shall, if so required by the Board, submit himself for examination by a medical referee. Workman to submit to examination

(2) A workman shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the regulations. In accordance with regulations R.S.O. 1950, c. 430, s. 21.

**23.**—(1) Where a workman has upon the request of his employer submitted himself for examination, or has been examined by a duly qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the workman's condition has been furnished in the former case by the employer to the workman and in the latter case by the workman to the employer, the Board may, on the application of either of them or of its own motion, refer the matter to a medical referee. In case of difference between medical examiners, etc., reference may be made to medical referee

(2) The medical referee to whom a reference is made under subsection 1, or who has examined the workman by the direction of the Board under subsection 1 of section 22, shall certify to the Board as to the condition of the workman and his fitness for employment, specifying where necessary the kind of employment and, if unfit, the cause of such unfitness, and his certificate unless the Board otherwise directs is conclusive as to the matters certified. Certificate of medical referee

(3) If a workman does not submit himself for examination when required to do so as provided by subsection 1 of section 22, or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection 1 of this section, or in any way obstructs any examination, his right to compensation or, if he is in receipt of a weekly or other periodical payment, his right to it is suspended until such examination has taken place. R.S.O. 1950, c. 430, s. 22. Failure to submit to examination or obstructing it

**24.** Where in any case, in the opinion of the Board, it is in the interest of the accident fund to provide a special surgical operation or special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. R.S.O. 1950, c. 430, s. 23. Special medical treatment in certain cases

**25.** Any weekly or other periodical payment to a workman may be reviewed at the request of the employer or of the Review of compensation

workman, if the compensation is payable by the employer individually, or, if the compensation is payable out of the accident fund, of the Board's own motion or at the request of the workman and on such review the Board may put an end to or diminish or increase such payment to a sum not beyond the maximum hereinafter prescribed. R.S.O. 1950, c. 430, s. 24.

Increase of  
compensa-  
tion to  
workman  
under 21

**26.** Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six months after the accident, the amount of a weekly payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what, if he had not been injured, he would probably have been earning at the date of the review. R.S.O. 1950, c. 430, s. 25.

Commuta-  
tion of  
payments  
for lump  
sum

**27.—(1)** Where the compensation is payable by an employer individually, the employer may, with the consent of the workman or dependant to whom it is payable and with the approval of the Board, but not otherwise, and, where it is payable out of the accident fund, the Board may, commute the weekly or other periodical payments payable to a workman or a dependant for a lump sum.

Lump sum  
to be paid  
to Board

**(2)** Where the lump sum is payable by the employer individually, it shall be paid to the Board.

Application  
of lump  
sum

**(3)** The lump sum may be,

- (a)** applied in such manner as the workman or dependant may direct;
- (b)** paid to the workman or dependant;
- (c)** invested by the Board and applied from time to time as the Board may deem most for the advantage of the workman or dependant;
- (d)** paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the workman or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the workman or dependant and approved by the Board;
- (e)** applied partly in one and partly in another or others of the modes mentioned in clauses *a*, *b*, *c* and *d*,

as the Board may determine.

(4) In any case where the compensation is payable out of the accident fund and where the Board is of opinion that the interest or pressing need of the workman or dependant warrants it, the Board may advance or pay to or for the workman or dependant such lump sum as the circumstances warrant. Advances on account of compensation  
R.S.O. 1950, c. 430, s. 26.

**28.**—(1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor to be commuted by the payment of a lump sum of such an amount as, if the disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal either to 75 per cent of the annual value or the full annual value of the weekly or other periodical payments and, in other cases, of such an amount as the Board may deem reasonable. Commutation of weekly payments  
R.S.O. 1950, c. 430, s. 27 (1); 1951, c. 95, s. 4.

(2) The sum for which a payment is commuted under subsection 1 shall be paid to the Board and shall be dealt with in the manner provided by section 27. Application of lump sum  
R.S.O. 1950, c. 430, s. 27 (2).

**29.**—(1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to a workman or his dependants and the payment has continued for more than six months, the liability shall, if the Board so directs before the expiration of twelve months from the commencement of the disability of the workman or his death, if the accident resulted in death, be commuted by the payment of a lump sum in accordance with section 28, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 27. Insurance company required to commute weekly or other periodical payment

(2) This section does not apply to a contract of insurance entered into before the 1st day of May, 1914. Where section not to apply  
R.S.O. 1950, c. 430, s. 28.

**30.** The Board may require an employer, who is individually liable to pay the compensation, to pay to the Board a sum sufficient to commute, in accordance with section 28, any weekly or other periodical payments that are payable by the employer and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but, if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments, the employer is nevertheless liable to Board may require employer to pay sum sufficient to commute

make such of them as fall due after the sum paid to the Board is exhausted and, if the sum paid is more than sufficient for that purpose, the excess shall be returned to the employer when the right to compensation comes to an end, unless otherwise ordered by the Board. R.S.O. 1950, c. 430, s. 29.

Board may  
require  
employer to  
insure his  
workmen

**31.** The Board may require an employer, who is individually liable, to pay the compensation to insure his workmen and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct and, in default of his doing so, the Board may cause them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. R.S.O. 1950, c. 430, s. 30.

Where  
employer in-  
sured, Board  
may require  
insurer to  
pay amount  
payable to  
employer  
directly to  
Board

**32.—(1)** Where an employer, who is individually liable to pay the compensation, is insured against his liability to pay compensation, the Board may require the insurance company or other underwriter to pay the sum that under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to a workman who becomes or whose dependants become entitled to compensation under this Part, directly to the Board in discharge or in discharge *pro tanto* of the compensation to which such workman or his dependants are found to be entitled.

Notice to be  
given to  
insurer

**(2)** Where a claim for compensation is made in any case to which subsection 1 applies, notice of the claim shall be given to the insurance company or other underwriter and to the employer, and the Board shall determine not only the question of the right of the workman or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection 1.

Section 27 to  
apply

**(3)** Section 27 applies to the compensation payable to the Board under subsection 1. R.S.O. 1950, c. 430, s. 31.

In case of  
permanent  
disability  
employer  
may be  
required to  
pay capital  
sum

**33.—(1)** Where the accident causes total or partial permanent disability or the death of the workman and the compensation is payable by the employer individually, the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient, with the interest thereon, to meet the future payments to be made to the workman or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments. R.S.O. 1950, c. 430, s. 32 (1); 1952, c. 114, s. 2.

(2) Instead of requiring the employer to make the payment provided for by subsection 1, the Board may require him to give such security as it may deem sufficient for the future payments. R.S.O. 1950, c. 430, s. 32 (2). or to give security for payment of compensation

**34.** Where the Board deems it requisite for the prompt payment of claims, it may require any employer in Schedule 2 to make deposits of money with it from time to time, out of which it may pay compensation and medical aid for accidents to workmen of such employer as they occur. R.S.O. 1950, c. 430, s. 33. Requiring deposits by employers in Schedule 2

**35.—**(1) The additional moneys necessary to provide for increases of compensation in respect of accidents previously happening may be levied and collected by the Board from the employers either now, previously or hereafter carrying on industries under this Part in such manner and at such time or times as the Board may deem most equitable and most in accordance with the general principles of this Act, and, in the case of Schedule 1 employers, the levy and collection may be by way of addition to the usual assessment or by levy of special or additional assessment or assessments, and, in the case of Schedule 2 employers, by way of additional deposit or capitalized amount as may be necessary to provide for such increases. Provision for funds to pay increased compensation

(2) Where by reason of limit of legal liability or for other cause the Board deems it inequitable or inexpedient to apply subsection 1 to any pension award, the Board has power to exempt the same accordingly. R.S.O. 1950, c. 430, s. 34. Power to grant exemptions in certain cases

**36.** Where a right to compensation is suspended under this Part, no compensation is payable in respect of the period of suspension. R.S.O. 1950, c. 430, s. 35. Compensation not payable during suspension

#### SCALE OF COMPENSATION

**37.—**(1) Where death results from an injury, the amount of the compensation shall be, Compensation in case of death

- (a) the necessary expenses of the burial of the workman, not exceeding \$300;
- (b) where owing to the circumstances of the case the body of the workman is transported for a considerable distance for burial, a further sum for necessary extra expenses of the burial thus entailed;
- (c) where the widow or an invalid husband is the sole dependant, a monthly payment of \$75;

- (d) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of \$75, with an additional monthly payment of \$25 to be increased upon the death of the widow or invalid husband to \$35 for each child under the age of sixteen years;
- (e) where the dependants are children, a monthly payment of \$35 to each child under the age of sixteen years;
- (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$100 per month. R.S.O. 1950, c. 430, s. 36 (1); 1951, c. 95, s. 5 (2); 1953, c. 109, s. 3 (1, 2); 1958, c. 123, s. 3 (1).

Further  
education

(2) Where in the opinion of the Board the furnishing of further or better education to a child appears advisable, the Board in its discretion may on application extend the period to which compensation shall be paid in respect of the child for such additional period as is spent by the child in the furthering or bettering of its education but in no case beyond the age of eighteen years unless the child in respect of whom compensation is being paid is attending school and reaches the age of eighteen years during the school year, in which case compensation may be continued until the conclusion of the school year. R.S.O. 1950, c. 430, s. 36 (2).

Compensation in death  
cases,  
maximum  
and  
minimum

(3) Exclusive of the expenses of the burial of the workman and the lump sum of \$300, the monthly compensation payable under subsection 1 shall not in any case exceed the average monthly earnings of the workman and, if the monthly compensation so payable exceeds such earnings, it shall be reduced accordingly and, where several persons are entitled to monthly payments, the payments shall be reduced proportionately, provided that the minimum monthly compensation shall be,

- (a) where the widow or an invalid husband is the sole dependant, \$75;
- (b) where the dependants are a widow or an invalid husband and one or more children, \$75 for the widow or invalid husband with a further payment of \$25, to be increased on the death of the widow or invalid husband to \$35, for each child, not exceeding in the whole \$150; or
- (c) where the dependants are children, \$35 to each child, not exceeding in the whole \$150. R.S.O. 1950, c. 430, s. 36 (3); 1953, c. 109, s. 3 (3); 1958, c. 123, s. 3 (2).

(4) Where the workman leaves no widow or the widow subsequently dies, or where there is a mother of a dependent illegitimate child, and it seems desirable to continue the existing household and an aunt, sister or mother of an illegitimate child, or other suitable person, acts as foster-mother in keeping up such household and maintaining and taking care of the children entitled to compensation in a manner that the Board deems satisfactory, such foster-mother while so doing is entitled to receive the same monthly payments of compensation for herself and the children as if she were the widow of the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments that they would otherwise have been entitled to receive. R.S.O. 1950, c. 430, s. 36 (4). Payment of monthly allowance to foster-mother

(5) In addition to any other compensation provided for, the widow or, where the workman leaves no widow, the foster-mother, as in subsection 4 described, is entitled to a lump sum of \$300. R.S.O. 1950, c. 430, s. 36 (5); 1958, c. 123, s. 3 (3). Payment of lump sum

(6) In the case provided for by clause *f* of subsection 1, the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependants and, in any case under that clause, compensation may be made wholly or partly in a lump sum or by such form of payment as the Board in the circumstances deems most suitable. Duration of payments under clause *f* of subsection 1.

(7) A dependant to whom the workman stood *in loco parentis* or a dependant who stood *in loco parentis* to the workman is entitled, as the Board may determine, to share in or receive compensation under clause *d*, *e* or *f* of subsection 1. Dependants to whom workman stood *in loco parentis*

(8) Compensation is payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies. Compensation to invalid child

(9) Where there are both total and partial dependants, the compensation may be allotted partly to the total and partly to the partial dependants. Compensation to dependants

(10) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board may deem most advantageous for the child. R.S.O. 1950, c. 430, s. 36 (6-10). Board may apply payment for benefit of children

**38.—**(1) If a dependent widow marries, the monthly payments to her shall cease, but she is entitled in lieu of Marriage of widow

them to a lump sum equal to the monthly payments for two years, and the lump sum is payable within one month after the day of her marriage.

Exception

(2) Subsection 1 does not apply to payments to a widow in respect of a child. R.S.O. 1950, c. 430, s. 37.

When payments to child to cease

**39.** Subject to subsections 2 and 8 of section 37, a monthly payment in respect of a child shall cease when the child attains the age of sixteen years or dies. R.S.O. 1950, c. 430, s. 38.

Temporary total disability

**40.** Where temporary total disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the workman's average weekly earnings during the previous twelve months if he has been so long employed, but if not then for any less period during which he has been in the employ of his employer, and is payable so long as the disability lasts. R.S.O. 1950, c. 430, s. 39.

Temporary partial disability

**41.** Where temporary partial disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the difference between the average weekly earnings of the workman before the accident and the average amount that he is earning or is able to earn in some suitable employment or business after the accident, and is payable so long as the disability lasts, and subsection 3 of section 42 applies. R.S.O. 1950, c. 430, s. 40.

Permanent disability

**42.—(1)** Where permanent disability results from the injury, the impairment of earning capacity of the workman shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the workman, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings ascertained in the manner provided by section 40 and is payable notwithstanding clause *a* of subsection 1 of section 3.

Schedule of percentages of impairment of earning capacity

(2) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent disability cases.

Payment of lump sum

(3) Where the impairment of the earning capacity of the workman does not exceed 10 per cent of his earning capacity, instead of such weekly or other periodical payment, the Board shall, unless in the opinion of the Board it would not be to the advantage of the workman to do so, direct that such lump



sum as may be deemed to be the equivalent of it shall be paid to the workman.

(4) Where the Board deems it more equitable, the Board may award compensation for permanent disability having regard to the difference between the average weekly earnings of the workman before the accident and the average amount that he is earning or is able to earn in some suitable occupation after the accident, and the compensation may be a weekly or other periodical payment of 75 per cent of such difference, and regard shall be had to the workman's fitness to continue in the employment in which he was injured or to adapt himself to some other suitable occupation. R.S.O. 1950, c. 430, s. 41.

**43.** Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured workman is entitled shall not be less than, Periodical payments Minimum amount of compensation

(a) for temporary total disability,

(i) where his average earnings are not less than \$15 a week, \$15 a week, and

(ii) where his average earnings are less than \$15 a week, the amount of such earnings,

and for temporary partial or permanent partial disability, a corresponding amount in proportion to the impairment of earning capacity; and

(b) for permanent total disability where the workman is unable to engage in any gainful occupation,

(i) where his average earnings are not less than \$100 a month, \$100, and

(ii) where his average earnings are less than \$100 a month, the amount of such earnings. R.S.O. 1950, c. 430, s. 42.

**44.—(1)** Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the workman was remunerated but not so as in any case to exceed the rate of \$5,000 per annum. R.S.O. 1950, c. 430, s. 43 (1); 1956, c. 93, s. 3. How average earnings to be computed

(2) Where, owing to the shortness of the time during which the workman was in the employment of his employer or the casual nature of his employment or the terms of his employment, it is impracticable to compute the rate of remuneration as of the date of the accident, regard may be had to the average weekly or monthly amount that during the twelve months In case of shortness of service or its casual nature

prior to the accident was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, then by a person in the same grade employed in the same class of employment and in the same locality.

Where two  
or more  
employers

(3) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them, his average earnings shall be computed on the basis of what he probably would have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident.

Meaning of  
employment  
by same  
employer

(4) Employment by the same employer means employment by the same employer in the grade in which the workman was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause.

Special  
expenses  
not to be  
included

(5) Where the employer was accustomed to pay the workman a sum to cover any special expenses entailed on him by the nature of his employment, that sum shall not be reckoned as part of his earnings.

Board to  
award com-  
pensation  
in certain  
cases

(6) Where in any case it seems more equitable, the Board may award compensation having regard to the earnings of the workman at the time of the accident.

Average  
earnings of  
apprentice

(7) Where a workman is an apprentice or in the course of learning a trade, occupation, profession or calling and his remuneration is of a nominal nature, the Board may for the purposes of this Act determine his average earnings at an amount that it deems fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the workman is liable to pay assessment to the Board on the earnings so determined. R.S.O. 1950, c. 430, s. 43 (2-7).

Matters to  
be con-  
sidered in  
fixing  
payments

**45.—(1)** In fixing the amount of compensation to be paid to a workman or his dependants, regard shall be had to any payment, allowance or benefit paid to them by the workman's employer in respect of the workman's accident, including any gratuity or other allowance provided wholly at the expense of the employer.

Payment to  
employer  
out of acci-  
dent fund

(2) Where the compensation is payable out of the accident fund, any sum deducted from the compensation under subsection 1 may be paid to the employer out of the accident fund. R.S.O. 1950, c. 430, s. 44.

**46.** Wherever it is deemed advisable, the Board may provide that the payments of compensation shall be fortnightly or monthly instead of weekly or, where the workman or dependant is not a resident of Ontario or ceases to reside therein, may fix the periods of payment otherwise or commute the compensation as the Board may deem proper. R.S.O. 1950, c. 430, s. 45.

Provision for  
fortnightly  
or monthly  
payments

**47.** The Board, for the purpose of enabling the workman to obtain an artificial member, or in any other case where it deems it proper, may, at any time or times, make or direct partial commutation or lump sum payment of his compensation, or otherwise alter the form of payment, as in the circumstances seems most for his advantage. R.S.O. 1950, c. 430, s. 46.

Commuting  
compensation  
for  
lump sum

**48.** Where it is found that the widow to whom compensation has been awarded is a common prostitute or is openly living with any man in the relation of man and wife without being married to him, the Board may discontinue or suspend compensation to such widow or divert such compensation in whole or in part to or for the benefit of any other dependant or dependants of the deceased workman. R.S.O. 1950, c. 430, s. 47.

Board may  
suspend or  
divert compensation  
in certain  
cases

**49.** Where a workman is entitled to compensation and it is made to appear to the Board,

Diverting  
compensation to  
benefit of  
family

(a) that the workman is no longer residing in Ontario but that his wife or child or children under sixteen years of age are still residing therein without adequate means of support and are, or are apt to become, a charge upon the municipality where they reside, or upon private charity; or

(b) that the workman although still residing in Ontario is not supporting his wife and children as aforesaid and an order has been made against the workman by a court of competent jurisdiction for the support or maintenance of his wife or family, or for alimony,

the Board may divert such compensation in whole or in part from the workman for the benefit of his wife or children. R.S.O. 1950, c. 430, s. 48.

**50.** Where a workman or a dependant is an infant under the age of twenty-one years or under any other legal disability, the compensation to which he is entitled may be paid to such person or be applied in such manner as the Board may deem most for his advantage. R.S.O. 1950, c. 430, s. 49.

Payments  
in case of  
infant

## MEDICAL AID

Medical and  
surgical aid  
during  
disability

R.S.O. 1960,  
cc. 114, 57

**51.—(1)** Every workman entitled to compensation under this Part, or who would have been so entitled had he been disabled for five days, is entitled to such medical, surgical and dental aid, the aid of drugless practitioners registered under *The Drugless Practitioners Act*, the aid of chiroprodists registered under *The Chiropody Act*, and hospital and skilled nursing services, and, in the discretion of the Board where a workman is rendered helpless through permanent total disability, such other treatment, services or attendance as may be necessary as a result of the injury, and is entitled to such artificial member or members and apparatus and dental appliances and apparatus as may be necessary as a result of the injury, and to have the same kept in repair or replaced when deemed necessary by the Board. R.S.O. 1950, c. 430, s. 50 (1); 1951, c. 95, ss. 1, 6 (1).

Interpre-  
tation

(2) In this Act, "medical aid" means the medical, surgical and dental aid, the aid of drugless practitioners registered under *The Drugless Practitioners Act*, the aid of chiroprodists registered under *The Chiropody Act*, and hospital and skilled nursing services, and, where a workman is rendered helpless through permanent total disability, such other treatment, services or attendance and the artificial member or members and apparatus and repair above-mentioned. R.S.O. 1950, c. 430, s. 50 (2); 1951, c. 95, s. 6 (1).

Damage to  
artificial  
member or  
apparatus

(3) The Board may pay and, where the employer is individually liable, the Board may order the employer to pay for the replacement or repair of an artificial member or apparatus of a workman that is damaged as a result of an accident arising out of and in the course of his employment, and, where the workman is unable to work because of such damage, he is entitled to compensation as though the inability to work had been caused by a personal injury within the meaning of subsection 1 of section 3. 1958, c. 123, s. 4.

Payment for  
medical aid

(4) Medical aid shall be furnished or arranged for by the Board or as it may direct or approve and,

(a) in the industries in Schedule 1, shall be paid out of the accident fund and the necessary amount shall be included in the assessments levied upon the employers; and

(b) in the industries in Schedule 2, the amount shall be paid by the employer of the injured workman to the Board for payment.

Accidents  
on or after  
Jan. 1st,  
1915

(5) A workman is entitled to such medical aid as may be necessary on or after the 1st day of January, 1947, for an

accident happening on or after the 1st day of January, 1915.  
R.S.O. 1950, c. 430, s. 50 (4, 5).

(6) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished and as to payment for medical aid shall be determined by the Board.  
R.S.O. 1950, c. 430, s. 50 (6); 1951, c. 95, s. 6 (2).

Questions to be determined by Board

(7) The fees or charges for medical aid shall not be more than would be properly and reasonably charged to the workman if he was paying them himself, and the amount thereof shall be determined by the Board, and no action for any amount larger than that determined by the Board under this subsection lies against the Board and no action in respect of such fees and charges lies against the injured workman, his employer or any other person. 1951, c. 95, s. 6 (3).

Amount of charges for medical aid

(8) Where accounts for payment of medical aid are not received by the Board within such time as the Board may prescribe, the Board may impose such penalty by way of a percentage reduction in the amount of the account as it may prescribe. 1951, c. 95, s. 6 (4).

Rendering of accounts for medical aid

(9) It is not lawful for any employer, directly or indirectly, to collect or receive or retain from any workman any contribution toward the expense of medical aid, and every person contravening this provision is guilty of an offence and for every such contravention is liable on summary conviction to a fine of not more than \$50 and is also liable, upon the order of the Board, to reimburse the workman treble the amount of any sum so collected, received or retained.

Contributions from employees forbidden

(10) Nothing in this Act affects any obligation upon the employer under *The Public Health Act* or any regulation made thereunder, but notwithstanding anything therein contained the employer shall not be entitled, directly or indirectly, to collect, receive or retain from any workman any contribution toward the expense of medical aid.

Duty of employer under R.S.O. 1960, c. 321, not affected

(11) Employers in industries in which it is deemed proper may be required by the Board to maintain as may be directed by the Board such first-aid appliances and service as the Board may direct, and the Board may make such order respecting the expense thereof as may be deemed just.

First-aid appliances may be directed by Board

(12) Every employer shall at his own expense furnish to any workman injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital, or to a physician, or to the workman's home, and any employer failing so to do is liable, by order of the Board, to pay for such conveyance and transportation as may be procured by the

Duty of employer as to furnishing injured workman with transportation

workman or by anyone for him, or as may be provided by the Board.

Further  
medical  
service

(13) Where, in conjunction with or apart from the medical aid to which workmen are entitled free of charge, further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from workmen is or would be one prohibited by this Act shall be determined by the Board. R.S.O. 1950, c. 430, s. 50 (8-12).

#### MEDICAL REPORTS

Reports of  
medical  
men and  
hospital  
officials

**52.** Every physician, surgeon, hospital official or other person attending, consulted respecting, or having the care of, any workman shall furnish to the Board from time to time, without additional charge, such reports as may be required by the Board in respect of such workman. R.S.O. 1950, c. 430, s. 51; 1951, c. 95, s. 7.

#### REHABILITATION

Aid to  
injured  
workmen

**53.** To aid in getting injured workmen back to work and to assist in lessening or removing any handicap resulting from their injuries, the Board may take such measures and make such expenditures as it may deem necessary or expedient, and the expense thereof shall be borne, in Schedule 1 cases, out of the accident fund and, in Schedule 2 cases, by the employer individually, and may be collected in the same manner as compensation or expenses of administration; provided that the total expenditure under this section shall not exceed \$200,000 in any calendar year. R.S.O. 1950, c. 430, s. 52; 1954, c. 107, s. 1.

#### WORKMEN'S COMPENSATION BOARD

Workmen's  
Compensa-  
tion Board

**54.** The Workmen's Compensation Board is continued as a body corporate of three members appointed by the Lieutenant Governor in Council. R.S.O. 1950, c. 430, s. 53.

Chairman  
and vice-  
chairman

**55.** One of the members shall be appointed by the Lieutenant Governor in Council to be the chairman of the Board and he shall hold that office while he remains a member of the Board and another of the members shall be appointed by the Lieutenant Governor in Council to be the vice-chairman of the Board. R.S.O. 1950, c. 430, s. 54.

When vice-  
chairman  
may act

**56.** In the absence of the chairman or in case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and has all the powers of the chairman. R.S.O. 1950, c. 430, s. 55.

**57.**—(1) In the case of the death, illness or absence from Ontario of a member or of his inability to act from any cause, the Lieutenant Governor in Council may appoint some person to act *pro tempore* in his stead and the person so appointed has all the powers and shall perform all the duties of a member. Appointment of member *pro tempore*

(2) Subsection 1 applies in the case of the chairman of the Board as well as in the case of any other member of it. Application of subs. 1  
R.S.O. 1950, c. 430, s. 56.

**58.** Where the vice-chairman appears to have acted for or instead of the chairman, it shall be presumed conclusively that he so acted for one of the reasons mentioned in section 57. Presumption where vice-chairman has acted  
R.S.O. 1950, c. 430, s. 57.

**59.** Subject to sections 60 and 66, each member shall hold office during the pleasure of the Lieutenant Governor in Council. Tenure of office of members  
R.S.O. 1950, c. 430, s. 58.

**60.** Unless otherwise directed by the Lieutenant Governor in Council, a member shall cease to hold office when he attains the age of seventy-five years. Age limit  
R.S.O. 1950, c. 430, s. 59.

**61.** Each of the members shall devote the whole of his time to the performance of his duties under this Part. Members to give whole time to duties  
R.S.O. 1950, c. 430, s. 60.

**62.** The salaries of the members shall be fixed by the Lieutenant Governor in Council and are payable out of the accident fund as part of the administration expenses of the Board. Salaries  
R.S.O. 1950, c. 430, s. 61.

**63.** The presence of two members is necessary to constitute a quorum of the Board. Quorum  
R.S.O. 1950, c. 430, s. 62.

**64.** A vacancy in the Board does not, if there remain two members of it, impair the authority of such two members to act. Vacancy  
R.S.O. 1950, c. 430, s. 63.

**65.** The Board has the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things. Powers of Board  
R.S.O. 1950, c. 430, s. 64.

**66.**—(1) A member of the Board shall not directly or indirectly, Members to be disqualified in certain cases

- (a) have, purchase, take or become interested in any industry to which this Part applies or any bond,

debenture or other security of the person owning or carrying it on;

- (b) be the holder of shares, bonds, debentures or other securities of any company that carries on the business of employers' liability or accident insurance;
- (c) have any interest in any device, machine, appliance, patented process or article that may be required or used for the prevention of accidents.

Idem

(2) If any such industry, or interest therein, or any such share, bond, debenture, security or thing comes to or becomes vested in a member of the Board by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it, he ceases to hold office. R.S.O. 1950, c. 430, s. 65.

Offices of Board and sittings

**67.** The offices of the Board shall be situated in the City of Toronto and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and, in that case, sittings may be held in any part of Ontario. R.S.O. 1950, c. 430, s. 66.

Proceedings of Board

**68.** The Board shall sit at such times and conduct its proceedings in such manner as it may deem most convenient for the proper discharge and speedy dispatch of business. R.S.O. 1950, c. 430, s. 67.

Real property

**69.** Subject to the approval of the Lieutenant Governor in Council, the Board may purchase or otherwise acquire such real property as it may deem necessary for its purposes, and may, with the like approval, sell or otherwise dispose of any such property. 1951, c. 95, s. 8.

Appointment of secretary and officers

**70.—(1)** The Board shall appoint a secretary and a chief medical officer and may appoint such auditors, actuaries, accountants, inspectors, medical referees, other officers, clerks and servants as the Board may deem necessary for carrying out this Part and may prescribe their duties and, subject to the approval of the Lieutenant Governor in Council, may fix their salaries.

Tenure of office

(2) Every person so appointed shall hold office during the pleasure of the Board. R.S.O. 1950, c. 430, s. 68.

Superannuation Fund

**71.—(1)** The fund known as The Workmen's Compensation Board Superannuation Fund, for the payment of superannuation allowances or allowances upon the death or disability of an employee or member of the Board, is continued.



(2) Subject to the approval of the Lieutenant Governor <sup>Regulations</sup> in Council, the Board may make regulations,

- (a) providing for contributions to the superannuation fund by the Board and by its members and employees;
- (b) providing for the terms and conditions upon which any superannuation or other allowance shall be payable out of the superannuation fund and the persons to whom the superannuation or other allowance may be paid. R.S.O. 1950, c. 430, s. 69 (1, 2).

(3) The employees of designated associations for accident <sup>Employees of accident prevention associations</sup> prevention formed under subsection 1 of section 117 and the employees of designated corporations for accident prevention, the members of which are employers within the meaning of section 117, shall for the purposes of this section be deemed to be employees of the Board, and every employee in the service of any such association or corporation on the 10th day of April, 1952, shall, for the purposes of this section, be deemed to have entered the service of the Board on the date he last entered the service of his association or corporation.

(4) The Board may designate associations and corpora- <sup>Idem</sup> tions for the purposes of subsection 3. 1952, c. 114, s. 3.

(5) The cost of maintaining and administering the super- <sup>Cost of administering fund</sup> annuation fund shall be deemed part of the cost of the administration of this Act and is chargeable to the accident fund. R.S.O. 1950, c. 430, s. 69 (3).

**72.—**(1) The Board has exclusive jurisdiction to examine <sup>General jurisdiction of Board</sup> into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon is final and conclusive and is not open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by *certiorari* or otherwise into any court.

(2) Without limiting the generality of subsection 1, such <sup>Specific jurisdiction of Board</sup> exclusive jurisdiction extends to determining,

- (a) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and, if so, which of them;
- (b) whether any industry or any part, branch or department of any industry falls within any of the classes

for the time being included in Schedule 2, and, if so, which of them;

- (c) whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of this Part.

Power to reconsider

(3) Nothing in subsection 1 prevents the Board from reconsidering any matter that has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the Board has authority to do.

Principles upon which Board to decide cases

(4) The decisions of the Board shall be upon the real merits and justice of the case, and it is not bound to follow strict legal precedent. R.S.O. 1950, c. 430, s. 70.

Certified copies of records, etc., as evidence

**73.** Every copy of or extract from an entry in any book or record of the Board or of or from any document filed with the Board, certified by the secretary of the Board or by such other officer of the Board as may be appointed for that purpose by the Board to be a true copy or extract, shall be received in any court as *prima facie* evidence of the matter so certified without proof of the secretary's or other officer's appointment, authority or signature. 1954, c. 107, s. 2.

Power of Board as to awarding compensation for expenses

**74.** The Board may award such sum as it may deem reasonable to the successful party to a contested claim for compensation or to any other contested matter as compensation for the expenses he has been put to by reason of or incidental to the contest, and an order of the Board for the payment by an employer of any sum so awarded, when filed in the manner provided by section 76, becomes a judgment of the court in which it is filed and may be enforced accordingly. R.S.O. 1950, c. 430, s. 72.

Board may act on report of officers

**75.—**(1) The Board may act upon the report of any of its officers and any inquiry that it deems necessary to make may be made by any member or officer of the Board or by some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

Powers

(2) The person appointed to make the inquiry has for the purposes of the inquiry all the powers conferred upon the Board by section 65. R.S.O. 1950, c. 430, s. 73.

Enforcement of orders of Board

**76.—**(1) An order of the Board for the payment of compensation or medical aid by an employer who is individually liable to pay the compensation or medical aid or any other order of the Board for the payment of money made under the authority of this Part, or a copy of any such order certified by the secretary to be a true copy, may be filed with the clerk

of any county or district court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court.

(2) For the duties performed by him in connection with the filing of an order or certificate of the Board pursuant to this section or section 110, such clerk is entitled to a fee of \$1, and, notwithstanding any other provision or rule, any proceeding provided for by either of such sections may be carried on by the Board by post without the necessity of personal attendance at any office. R.S.O. 1950, c. 430, s. 74.

Fees of clerk  
of county  
or district  
court on  
filing order  
of Board

**77.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make such regulations as may be deemed expedient for carrying out the provisions of this Part and to meet cases not specifically provided for by this Part.

Power of  
Board to  
make regu-  
lations

(2) Every person who contravenes any such regulation after it has become effective or any rule of an association formed as provided by section 117 that has been approved and ratified as provided by that section is guilty of an offence and for every contravention is on summary conviction liable to a fine of not more than \$50, but no prosecution for any such contravention shall be taken without leave of the Board. R.S.O. 1950, c. 430, s. 75.

Offence

**78.** The accounts of the Board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant Governor in Council for that purpose, and the salary or remuneration of the last-mentioned auditor shall be paid by the Board. R.S.O. 1950, c. 430, s. 76.

Audit of  
accounts

**79.**—(1) The Board shall after the close of each year file with the Provincial Secretary an annual report upon the affairs of the Board.

Annual  
report

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1950, c. 430, s. 77.

Tabling

**80.** The Superintendent of Insurance or an officer of his Department named by him for that purpose shall whenever required by the Lieutenant Governor in Council examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant Governor in Council. R.S.O. 1950, c. 430, s. 78.

Superin-  
tendent of  
insurance  
to examine  
into affairs  
and business  
of Board

Provincial  
grant to-  
wards costs  
of adminis-  
tration

**81.** To assist in defraying the expenses incurred in the administration of this Part, there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding \$100,000 as the Lieutenant Governor in Council may direct. R.S.O. 1950, c. 430, s. 79.

#### ACCIDENT FUND

How acci-  
dent fund  
to be  
provided

**82.**—(1) An accident fund shall be provided by contributions to be made by the employers in the classes or groups of industries for the time being included in Schedule 1, and compensation payable in respect of accidents that happen in any industry included in any of such classes or groups shall be paid out of the accident fund.

Industries in  
Schedule 2  
not to  
contribute

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1, none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under this Part. R.S.O. 1950, c. 430, s. 80.

Payment of  
compensa-  
tion out of  
reserves or  
Consoli-  
dated  
Revenue  
Fund

**83.** If at any time there is not money available for payment of the compensation that has become due without resorting to the reserves, the Board may pay such compensation out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the compensation or by including it in a subsequent annual assessment, but, if for any reason it is deemed inexpedient to withdraw the amount required from the reserves, the Lieutenant Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario. R.S.O. 1950, c. 430, s. 81.

Sufficiency  
of accident  
fund to be  
maintained

**84.** It is the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it will be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened previously. R.S.O. 1950, c. 430, s. 82.

Reserve  
funds

**85.**—(1) Subject to section 106, it is not obligatory upon the Board to provide and maintain a reserve fund at all times equal to the capitalized value of the payments of compensation that will become due in future years unless the Board is

of opinion that it is necessary to do so in order to comply with section 84.

(2) It is not necessary for the reserve fund to be uniform as to all classes but, subject to sections 84 and 106, it is discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them. R.S.O. 1950, c. 430, s. 83.

Reserve fund need not be uniform as to all classes

**86.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may by regulation,

Regulations re Schedules 1 and 2

- (a) rearrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of this Part;
- (b) establish other classes including any of the industries that are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;
- (c) add to any of the classes for the time being included in Schedule 1 any industry that is not included in any of such classes;
- (d) exclude any trade, employment, occupation, calling, avocation or service from any industry for the time being included under this Part or at any time brought under this Part.

(2) Where in the opinion of the Board the hazard to workmen in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may subdivide the class into sub-classes or groups and, if that is done, the Board may fix the percentages or proportions of the contributions to the accident fund that are to be payable by the employers in each sub-class or group.

Apportionment of burden of assessment to hazard of business, etc.

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class, sub-class or group, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible. R.S.O. 1950, c. 430, s. 84 (1-3).

Separate accounts to be kept for each class, sub-class or group

(4) Where in the opinion of the Board sufficient precautions have not been taken for the prevention of accidents to workmen in the employment of an employer or where the working conditions are not safe for workmen or where the employer has not complied with the regulations respecting first aid, the Board may add to the amount of any contribution to the accident fund for which the employer is liable such

Power to increase amount of assessment in certain cases

a percentage thereof as the Board may deem just and may assess and levy the same upon the employer. 1954, c. 107, s. 3 (1); 1958, c. 123, s. 5.

Collection  
and applica-  
tion of  
additional  
percentage

(5) Any additional percentage levied and collected under subsection 4 shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or sub-class to which the employer from whom it is collected belongs as the Board may determine.

Merit  
system

(6) Where, in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to a minimum and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may reduce the amount of any contribution to the accident fund for which such employer is liable. R.S.O. 1950, c. 430, s. 84 (5, 6).

Relief

(7) The Board, if satisfied that the default was excusable, may in any case relieve the employer in whole or in part from liability under subsection 4. 1954, c. 107, s. 3 (2).

Injury to  
minor

**87.** Where the Board finds that an employer has employed a minor in contravention of the law and a claim for injury to the minor is made, such unlawful employment does not affect or prejudice the right of the claimant, but the Board may exclude the industry from the class in which it is included and, if it is so excluded, the employer is individually liable to pay the compensation to which the minor or any dependant of the minor is entitled. R.S.O. 1950, c. 430, s. 85.

Withdraw-  
ing small  
industries  
from classes

**88.**—(1) The Board may in the exercise of the powers conferred by section 86 withdraw or exclude from a class industries in which not more than a stated number of workmen are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in Schedule 1, but no withdrawal or exclusion under the authority of this subsection has the effect of excluding any industry from Schedule 2.

Employers  
in industries  
withdrawn  
under subs.  
1 may elect  
to become  
members of  
class

(2) Where industries are withdrawn or excluded from a class under the authority of subsection 1, an employer in any of them may, nevertheless, elect to become a member of the class to which but for the withdrawal or exclusion he would have belonged, and, if he so elects, he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in Schedule 1.

(3) Notice of the election shall be given to the secretary of the Board and the election shall be deemed to have been made when the notice is received by him. Notice of election

(4) A workman in any industry excluded under the authority of subsection 1 may notify the secretary of the Board that he desires such industry to be included in Schedule 1, and such notice upon receipt thereof by the secretary has the same effect as a notice of election from the employer. R.S.O. 1950, c. 430, s. 86. Election of workman

**89.** The powers conferred by sections 86 to 88 may be exercised from time to time and as often as in the opinion of the Board occasion may require. R.S.O. 1950, c. 430, s. 87. Powers may be exercised as occasion requires

**90.** The Board may, upon the application of an employer, add to Schedule 1, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer. R.S.O. 1950, c. 430, s. 88. Additions to Schedule 1

**91.** The Board may, upon the application of an employer, add to Schedule 2, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer not in Schedule 1. R.S.O. 1950, c. 430, s. 89. Additions to Schedule 2

#### STATEMENTS TO BE FURNISHED BY EMPLOYERS

**92.—(1)** Subject to the regulations, every employer shall yearly on or before such date as shall be prescribed by the Board, and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a statement of the amount of the wages earned by all his employees during the year then last past or any part thereof specified by the Board and of the amount that he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both certified to be accurate by the employer or manager of the business or, where the employer is a corporation, by an officer of the corporation having a personal knowledge of the matters to which the statements relate. Statements to be furnished by employers

(2) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or commenced on or after the 1st day of January in the then current year, the employer shall forthwith notify the Board of the fact and prepare and transmit to the Board a statement of the amount that he estimates he will expend for wages for Statement to be furnished by employer

the remainder of the year and such other information as the Board may require, certified to be accurate in the manner prescribed by subsection 1.

Employer to  
keep account  
of wages  
paid

(3) Every employer shall keep in such form and with such detail as may be required for the purposes of this Act a careful and accurate account of all wages paid to his employees and such account shall be kept within Ontario and shall be produced to the Board and its officers when so required.

Separate  
statements  
as to  
branches,  
etc.

(4) Where the business of the employer embraces more than one branch of business or class of industry, the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified and transmitted as provided by subsection 1.

Failure to  
furnish  
statements

(5) If any employer does not make and transmit to the Board the prescribed statement within the prescribed time, the Board may base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the payroll of the employer and the employer is bound thereby, but, if it is afterwards ascertained that such amount is less than the actual amount of the payroll, the employer is liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed on the basis of his payroll.

Conse-  
quences of  
default in  
furnishing  
statements

(6) If an employer does not comply with subsection 1, subsection 2, subsection 3 or subsection 4, or if any statement made thereunder is not a true and accurate statement of any of the matters required to be set forth in it, the employer for every such non-compliance and for every such statement is guilty of an offence and on summary conviction is liable to a fine of not more than \$500, and default or delay in furnishing any such statement or insufficiency of estimate of expenditure for wages also renders the employer liable to pay an additional percentage of assessment or to pay interest, as fixed by the Board. R.S.O. 1950, c. 430, s. 90.

Municipal  
assessors to  
make return  
re employees

**93.**—(1) Every assessor of a township, town or village shall yearly on or before the last day for completing his assessment roll make a return to the Board upon forms provided by the Board for the purpose showing the names, addresses, nature of business, and usual number of employees, of all employers of labour carrying on in the municipality any industry or business other than farming or mercantile business.

Payment of  
assessors

(2) The Board may make remuneration for such return out of the accident fund. R.S.O. 1950, c. 430, s. 91.



**94.**—(1) The Board and any member of it and any officer or person authorized by it for that purpose have the right to examine the books and accounts of the employer and to make such other inquiry as the Board may deem necessary for the purpose of ascertaining whether any statement furnished to the Board under section 92 is an accurate statement of the matters that are required to be stated therein or of ascertaining the amount of the payroll of any employer or of ascertaining whether any industry or person is under the operation of this Part and whether in Schedule 1 or Schedule 2, and for the purpose of any such examination and inquiry the Board and the person so appointed have all the powers that may be conferred on a commissioner under *The Public Inquiries Act*.  
R.S.O. 1950, c. 430, s. 92 (1).  
Examination of accounts and books of employer  
R.S.O. 1960, c. 323

(2) The Board may, for the purpose of the examination mentioned in subsection 1, apply *ex parte* to a judge of the county or district court of the county or district in which the books and accounts are located for an order authorizing an officer of the Board, together with such members of the Ontario Provincial Police Force or other police officers as he calls on to assist him, to enter and search, if necessary by force, any building, receptacle or place for books and accounts of the employer and to seize and take away any such books and accounts for the purpose of the examination and retain them in his possession until such examination is completed.  
1955, c. 93, s. 1.  
Order to seize books

(3) Every employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection 1 or refuses to permit it to be made is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.  
Offence

(4) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and for all purposes of this Act to administer oaths, affirmations and declarations and certify to the same having been made.  
R.S.O. 1950, c. 430, s. 92 (2, 3).  
Officers of Board authorized to take declarations

**95.**—(1) If a statement is found to be inaccurate, the assessment shall be made on the true amount of the payroll as ascertained by such examination and inquiry, or, if an assessment has been made against the employer on the basis of his pay roll being as shown by the statement, the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would  
Assessment may be made to correspond with pay-rolls

have been assessed if the amount of the payroll had been truly stated, and in addition a sum equal to such difference.

Relief from  
additional  
sum

(2) The Board, if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the additional sum provided for by subsection 1 or any part of it. R.S.O. 1950, c. 430, s. 93.

Board to  
have right  
to inspect  
premises of  
employer

**96.**—(1) The Board and any member of it and any officer or person authorized by it for that purpose have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose that the Board may deem necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

Offence

(2) Every employer and every other person who obstructs or hinders the making of any inspection under subsection 1, or refuses to permit it to be made, is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. R.S.O. 1950, c. 430, s. 94.

Information  
obtained  
not to be  
divulged

**97.**—(1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the Board, any information obtained by him or that has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

Offence

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1950, c. 430, s. 95.

#### ASSESSMENTS

Assessments,  
levying

**98.**—(1) The Board shall in every year assess and levy upon the employers in each of the classes such percentage of payroll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it deems sufficient to pay the compensation during the current year in respect of injuries to workmen in the industries within the class, and to

provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to maintain a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board may deem necessary to prevent the employers in future years from being unduly or unfairly burdened with payments that are to be made in those years in respect of accidents that have previously happened.

(2) Such assessments, if the Board sees fit, may be levied <sup>Provisional levy</sup> provisionally upon the estimate of payroll given by the employer or upon an estimate fixed by the Board and, after the actual payroll has been ascertained, may be adjusted to the correct amount, and the payment of assessments, if the Board sees fit, may be divided into instalments. R.S.O. 1950, c. 430, s. 96.

**99.**—(1) Where the assessment is based on the payroll of the employer and there is included in it the wages or salary of a workman who has been paid more than at the rate of \$5,000 per annum, the excess shall be deducted from the amount of the payroll and the assessment shall be based on the amount of it as so reduced. R.S.O. 1950, c. 430, s. 97 (1); 1956, c. 93, s. 4. <sup>Deduction from payroll of proportion of wages</sup>

(2) It is not necessary for the assessments upon the employers in a class, sub-class or group to be uniform, but they may vary for each individual industry or plant in relation to the hazard of such industry or plant, and the Board may levy a differential rate of assessment on each employer in the class, sub-class or group accordingly. 1954, c. 107, s. 4. <sup>Assessments need not be uniform</sup>

(3) A system of merit rating may, if deemed proper, be adopted. R.S.O. 1950, c. 430, s. 97 (3). <sup>Merit rating</sup>

**100.**—(1) The Board shall determine and fix the percentage, rate or sum for which each employer is assessed under section 98 or 99, or the provisional amount thereof, and each employer shall pay to the Board the amount or provisional amount of his assessment within one month or such other time as the Board may fix after notice of the assessment and of the amount has been given to him, or, where payment is to be made by instalments, he shall pay the first instalment within such time and the remaining instalment or instalments at the time or times specified in the notice. <sup>Rate of assessment to be fixed by the Board</sup>

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted. <sup>How notice may be served</sup>

Revision of  
assessments

(3) When it appears at any time that a statement or estimate of payroll upon which an assessment or provisional amount of assessment is based is too low, the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as is sufficient to bring the payment of assessment up to the proper amount, and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. R.S.O. 1950, c. 430, s. 98.

Insufficient  
assessment

**101.** If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up the deficiency and section 100 applies to such assessments, but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. R.S.O. 1950, c. 430, s. 99.

All classes  
may be as-  
sessed for  
deficiency in  
any of them

**102.—**(1) Where any deficiency in the amount realized from any assessment in any class is caused by the failure of some of the employers in that class to pay their share of the assessment or by any disaster or other circumstance that in the opinion of the Board would unfairly burden the employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes and section 100 applies to such assessments, but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment.

Special fund

(2) The Board, where it deems proper, may add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance that, in the opinion of the Board, would unfairly burden the employers in any class. R.S.O. 1950, c. 430, s. 100.

Where  
deficiency  
made good

**103.** If and so far as any deficiency mentioned in sections 101 and 102 is afterwards made good wholly or partly by the defaulting employer, the amount that has been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall be credited to them in making the next assessment. R.S.O. 1950, c. 430, s. 101.

Employer  
not assessed

**104.—**(1) If for any reason an employer liable to assessment is not assessed in any year, he is nevertheless liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in

the same manner as the payment of an assessment may be enforced.

(2) Any sum collected from an employer under subsection 1 shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or sub-class to which such employer belonged. R.S.O. 1950, c. 430, s. 102.

Amount collected to be taken into account in making subsequent assessment

**105.** Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, a defaulting employer continues liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid. R.S.O. 1950, c. 430, s. 103.

Employer liable to pay unpaid sums

**106.** Whenever the Lieutenant Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and, when such a requirement is made, the Board shall make such supplementary assessment forthwith and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments apply to it. R.S.O. 1950, c. 430, s. 104.

Lieutenant Governor in Council may require supplementary assessments to be made

**107.** In order to maintain the accident fund as provided by section 84, the Board may from time to time and as often as may be deemed necessary include in any sum to be assessed upon the employers and may collect from them such sums as may be deemed necessary for that purpose and the sums so collected shall form a reserve fund and shall be invested in securities issued by the Province of Ontario or in securities the payment of which is guaranteed by it or in securities issued by the Dominion of Canada or in securities the payment of which is guaranteed by it. R.S.O. 1950, c. 430, s. 105.

Formation of reserves

**108.** If an assessment or a special assessment is not paid when it becomes payable, the defaulting employer is liable to pay and shall pay for his default such a percentage upon the amount unpaid as may be prescribed by the regulations or as may be determined by the Board. R.S.O. 1950, c. 430, s. 106.

Additional percentage for non-payment of assessment

Failure to  
make return  
or pay  
assessment

**109.**—(1) Any employer who refuses or neglects to make or transmit any payroll, return or other statement required to be furnished by him under section 92, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation and medical aid payable in respect of any accident to a workman in his employ that happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

Relieving  
clause

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. R.S.O. 1950, c. 430, s. 107.

Collection  
of unpaid  
assessments

**110.** Where default is made in the payment of any assessment or special assessment, or any part of it, the Board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable, and such certificate or a copy of it certified by the secretary to be a true copy may be filed with the clerk of any county or district court or, where the amount remaining unpaid does not exceed \$200, with the clerk of any division court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate. R.S.O. 1950, c. 430, s. 108.

Board may  
collect  
assessment  
through  
municipal  
collectors

**111.**—(1) If an assessment or a special assessment, or any part of it, remains unpaid for thirty days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by section 110, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment and the establishment in respect of which it is payable, and, upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate, he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount, when collected, shall be paid over by the collector to the Board.

Collector  
entitled to  
percentage

(2) The collector is entitled to add 5 per cent thereof to the amount to be collected and to retain such percentage for his services in making the collection. R.S.O. 1950, c. 430, s. 109.

**112.**—(1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made.

Case of  
industry  
temporarily  
carried on

(2) The Board has the like powers and is entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments.

Powers of  
Board

(3) Every employer who makes default in complying with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and an additional fine of not more than \$20 per day for every day on which the default continues. R.S.O. 1950, c. 430, s. 110.

Offence

**113.** In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under *The Mechanics' Lien Act*, it is the duty of the owner as defined by that Act to see that any sum that the employer is liable to contribute to the accident fund is paid and, if any such owner fails to do so, he is personally liable to pay it to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. R.S.O. 1950, c. 430, s. 111.

Liability of  
owner under  
R.S.O. 1960,  
c. 233, for  
contribution  
of employer  
to accident  
fund

**114.**—(1) There shall be included among the debts that, under *The Assignments and Preferences Act*, *The Trustee Act*, and *The Corporations Act*, are, in the distribution of the property, in the case of an assignment or death or in the distribution of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability whereof accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts have effect accordingly.

Distribution  
of assets  
R.S.O. 1960,  
cc. 25, 408,  
71

(2) When the compensation is a periodical payment, the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be determined by the Board, for which the periodical payments may be commuted.

Periodical  
payments of  
compensation

(3) Priority in respect of any individual claim for compensation shall not exceed \$500. R.S.O. 1950, c. 430, s. 112.

Limit of  
priority

## RETURNS OF ACCIDENTS

Employers  
to give notice  
of accidents

**115.**—(1) Every employer, within three days after the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages or that necessitates medical aid, shall notify the Board in writing of,

- (a) the happening of the accident and the nature of it;
- (b) the time of its occurrence;
- (c) the name and address of the workman;
- (d) the place where the accident happened;
- (e) the name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury,

and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require.

Offence

(2) For every contravention of subsection 1, the employer is guilty of an offence and on summary conviction is liable to a fine of not more than \$50.

Default in  
reporting  
accident or  
claim

(3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall, in addition to any other penalty or liability, pay to the Board, if so ordered by the Board, the amount of compensation and medical aid awarded in respect of such accident or claim in accordance with the evidence or information otherwise obtained by the Board. R.S.O. 1950, c. 430, s. 113.

## INDUSTRIAL DISEASES

Certain  
industrial  
diseases to  
be deemed  
accidents

**116.**—(1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged, whether under one or more employments, the workman is or his dependants are entitled to compensation as if the disease was a personal injury by accident and the disablement was the happening of the accident, subject to the modifications hereinafter mentioned or contained in the regulations, unless at the time of entering into the employment he had wilfully and falsely represented himself in writing as not having previously suffered from the disease.

By whom  
compensa-  
tion payable

(2) Where the compensation is payable by an employer individually, it is payable by the employer who last employed



the workman in the employment to the nature of which the disease was due.

(3) The workman or his dependants, if so required, shall furnish the employer mentioned in subsection 2 with such information as to the names and addresses of all the other employers by whom he was employed in the employment to the nature of which the disease was due as such workman or his dependants may possess, and, if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection 4, that employer upon proving that the disease was not contracted while the workman was in his employment is not liable to pay compensation.

Names of former employers to be furnished by claimants

(4) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer, he may bring such employer before the Board and, if the allegation is proved, that other employer is the employer by whom the compensation shall be paid.

Last employer may bring in former employers

(5) If the disease is of such a nature as to be contracted by a gradual process, any other employers who employed the workman in the employment to the nature of which the disease was due are liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just.

Where disease result of gradual process, former employers to contribute

(6) The amount of the compensation shall be fixed with reference to the earnings of the workman under the employer by whom the compensation is payable, and the notice provided for by section 21 shall be given to the employer who last employed the workman in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the workman has voluntarily left the employment.

How compensation to be fixed

(7) Where the compensation is payable out of the accident fund, the Board shall make such investigation as it deems necessary to ascertain the class or classes against which the compensation should be charged and shall charge or apportion the compensation accordingly.

Charging compensation to particular classes

(8) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved, but, except where the Board is satisfied that the disease is not due to any other cause than his

Presumptions as to disease being due to nature of employment

employment in Ontario, no compensation is payable under this section unless the workman has been a resident of Ontario for the three years next preceding his first disablement.

Appointment of medical officers, mines  
R.S.O. 1960, c. 241

(9) The Board may appoint such medical officers as may be required to carry out *The Mining Act* with regard to the examination of employees or applicants for employment, and the remuneration and expenses of such officers shall be paid out of the rates imposed for payment of silicosis claims.

Condition upon which compensation granted

(10) Nothing in this Act entitles a workman or his dependants to compensation, medical aid or payment of burial expenses for disability or death from silicosis unless the workman has been actually exposed to silica dust in his employment in Ontario for periods amounting in all to at least two years preceding his disablement.

Saving

(11) Nothing in this section affects the right of a workman to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part.

Extension of section to pneumoconiosis, etc.

(12) The provisions of this section relating to silicosis apply *mutatis mutandis* to pneumoconiosis and stone worker's or grinder's phthisis.

Additional industrial diseases

(13) The Board, subject to the approval of the Lieutenant Governor in Council, may declare any disease to be an industrial disease and may amend Schedule 3 accordingly.  
R.S.O. 1950, c. 430, s. 114.

#### FORMATION OF ASSOCIATIONS AND COMMITTEES

Associations of employers may be formed

**117.**—(1) The employers in any of the classes for the time being included in Schedule 1 may form themselves into an association for accident prevention and may make rules for that purpose.

Rules of associations

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve such rules and, when approved by the Board and by the Lieutenant Governor in Council, they are binding on all the employers in industries included in the class.

Inspectors

(3) Where an association under the authority of its rules appoints an inspector or an expert for the purpose of accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it that is at the credit of any one or more of the classes as the Board may deem just.

(4) The Board may in any case where it deems proper make a grant towards the expenses of any such association. Expenses of associations

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class. Where charged

(6) The word "class" in this section includes sub-class or such part of a class or such number or classes or parts of classes in Schedule 1 as may be approved by the Board. Interpretation  
R.S.O. 1950, c. 430, s. 115.

**118.**—(1) The employers in any of the classes for the time being included in Schedule 1 may appoint a committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates. Committee of employers

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of opinion that the committee sufficiently represents such employers and the committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the committee as to the proper sum to be awarded for compensation if the workman or dependant is satisfied with the sum named in the certificate. Board may act on certificate of committee as to payment of compensation

(3) The committee may be the medium of communication on the part of the class with the Board. R.S.O. 1950, c. 430, s. 116. Medium of communication

#### CONTRIBUTION BY EMPLOYERS IN SCHEDULE 2

**119.** Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board may deem just and determine, and the sum payable by them shall be apportioned between such employers and be assessed and levied in like manner as in the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessments apply *mutatis mutandis* to assessments made under the authority of this section. R.S.O. 1950, c. 430, s. 117. Contribution by employers individually liable to expenses of administration

**120.** The fines recovered for an offence against this Part shall be paid over to the Board and shall form part of the accident fund. R.S.O. 1950, c. 430, s. 118. Disposition of fines

**121.** This Part applies only to the industries mentioned in Schedules 1 and 2 and to such industries as are added to them under the authority of this Part and to employments Application of Part I

therein, and applies to any employment by or under the Crown in right of Ontario, including any employment by any permanent board or commission appointed by the Crown in right of Ontario. R.S.O. 1950, c. 430, s. 119.

Assistance  
to peace  
officers  
1953-54,  
c. 51 (Can.)

**122.** For the purposes of this Act, every person who under clause *b* of section 110 of the *Criminal Code* (Canada) is required to assist in arresting any person or in preserving the peace shall be deemed to be an employee of the Crown in right of Ontario and his average earnings shall be deemed to be the same in amount as his average earnings at his regular employment but in any case not less than \$15 per week and not more than \$5,000 per annum. 1952, c. 114, s. 4; 1956, c. 93, s. 5.

## PART II

Application  
of sections  
124 and 125

**123.** Subject to section 126, sections 124 and 125 apply only to the industries to which Part I does not apply and to the workmen employed in such industries, but outworkers and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under Part I but who are excluded from the benefit of Part I, are not by this section excluded from the benefit of sections 124 and 125. R.S.O. 1950, c. 430, s. 120.

Liability of  
employer for  
defective  
ways, works,  
etc., and for  
negligence of  
his servants

**124.**—(1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment, the workman or, if the injury results in death, the legal personal representatives of the workman and any person entitled in case of death have an action against the employer, and, if the action is brought by the workman, he is entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and, if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under *The Fatal Accidents Act*, they are entitled to recover such damages as they are entitled to under that Act.

R.S.O. 1960,  
c. 138

Liability of  
person  
supplying  
defective  
ways, works,  
plant, etc.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused

to a workman employed by the contractor or by any subcontractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done is liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or subcontractor is liable to the action as if this subsection had not been enacted but not so that double damages are recoverable for the same injury.

(3) Nothing in subsection 2 affects any right or liability of the person for whom the work is done and the contractor or subcontractor as between themselves. Liability of contractor and subcontractor

(4) A workman shall not, by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence that caused his injury, be deemed to have voluntarily incurred the risk of the injury. R.S.O. 1950, c. 430, s. 121. Effect of continuance in employment after knowledge

**125.**—(1) A workman shall be deemed not to have undertaken the risks due to the negligence of his fellow workmen and contributory negligence on the part of a workman is not a bar to recovery by him or by any person entitled to damages under *The Fatal Accidents Act* in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would otherwise have been liable. Certain common law rules abrogated

(2) Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action. R.S.O. 1950, c. 430, s. 122. Contributory negligence

**126.**—(1) This Act does not apply to the industry of farming or to domestic or menial servants or their employers. R.S.O. 1950, c. 430, s. 123 (1). Farm labourers and domestic servants excluded

(2) Notwithstanding anything in subsection 1, the industry of farming may be brought under Part I by application of the employer pursuant to section 90 or 91. R.S.O. 1950, c. 430, s. 123 (2); 1951, c. 95, s. 9. Farming industry

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## CHAPTER 438

**The Workmen's Compensation Insurance Act**

**1.** In this Act, "workman" includes the dependants of a workman entitled to recover damages under *The Fatal Accidents Act*. R.S.O. 1950, c. 431, s. 1.

Interpre-  
tation  
R.S.O. 1960,  
c. 138

**2.** Where an employer is insured against his liability for damages to a workman under any Act of the Legislature, the insurance shall be deemed to be for and shall enure to the benefit of the workman, and if a workman has suffered injury in respect of which he is entitled to recover damages from his employer, the insurer shall not, without the consent of the workman, pay to the employer the amount for which the insurer is liable to him in respect of such injury, until the claim of the workman has been satisfied, and the workman if and when his right to recover the damages has been determined as against the employer is entitled to demand and recover from the insurer the amount of the damages and costs to the extent to which, but no further than, the employer is entitled to recover the same from the insurer. R.S.O. 1950, c. 431, s. 2.

Claim of  
workman on  
insurance  
moneys  
payable to  
employer

**3.** This Act does not apply to a workman who is entitled to compensation under Part I of *The Workmen's Compensation Act*. R.S.O. 1950, c. 431, s. 3.

Where Act  
not to  
apply  
R.S.O. 1960,  
c. 437















